## EXHIBIT <u>2</u>38

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1
                 UNITED STATES DISTRICT COURT
               FOR THE NORTHERN DISTRICT OF OHIO
 2
                       EASTERN DIVISION
 3
                                     MDL No. 2804
    IN RE: NATIONAL
    PRESCRIPTION OPIATE
                                )
    LITIGATION
                                    Case No. 1:17-MD-2804
 5
                                   Hon. Dan A. Polster
    THIS DOCUMENT RELATES TO
 6
    ALL CASES
 7
 8
9
10
                  Thursday, January 10, 2019
11
          HIGHLY CONFIDENTIAL - SUBJECT TO FURTHER
12
                    CONFIDENTIALITY REVIEW
13
14
15
16
            Videotaped Deposition of GARY HILLIARD,
     held at Winstead PC, 2728 N. Harwood St.,
17
     Dallas, Texas, commencing at 9:06 a.m. on the
     above date, before Susan Perry Miller,
     Registered Diplomate Reporter, Certified
18
     Realtime Reporter, Certified Realtime
19
     Captioner, and Notary Public.
20
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                BRIAN BOBBITT,
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10
          ALSO PRESENT:
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                RICHARD WOODS, Paralegal, Levin
12
                Papantonio
13
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25			

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(Thursday, January 10, 2019, 9:06 a.m.)
 1
 2.
                   THE VIDEOGRAPHER: All right,
 3
            stand by. We are now on the record.
 4
            My name is Brian Bobbitt. I'm a
 5
            videographer for Golkow Litigation
 6
            Services. Today's date is
 7
            January 10th, 2019, and the time is
            9:06 a.m.
 8
 9
                   This video deposition is being
            held in Dallas, Texas, in the National
10
11
            Prescription Opiate Litigation, MDL
12
            No. 2804. The deponent is Gary
13
            Hilliard.
14
                   Would counsel like to identify
            themselves for the record.
15
16
                   MR. BOGLE: Brandon Bogle
17
            representing the plaintiffs. He's my
18
           paralegal.
19
                   MS. HELLER-TOIG: Elly
20
            Heller-Toig from Marcus & Shapira for
21
            HBC Service Company.
22
                   MR. PERRY: Stan Perry for
23
            AmerisourceBergen.
24
                   MR. BRODSKY: Richard Brodsky
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            from Jones Day on behalf of Walmart.
```

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MS. LUND: Juli Ann Lund from
 1
 2.
            Williams & Connolly on behalf of
            Cardinal Health.
 3
 4
                   MR. KELLY: Kevin Kelly of
 5
            Covington & Burling on behalf of
 6
            McKesson.
 7
                   MR. EPPICH: Chris Eppich of
 8
            Covington & Burling on behalf of
            McKesson and the witness.
 9
10
                   THE REPORTER: Thank you.
11
            Would those on the phone announce,
12
            please?
13
                   MR. LOMBARDO: Good morning.
            John Lombardo with Arnold & Porter for
14
            the Endo and Par defendants.
15
16
                   MS. LUCERO: Good morning.
17
            Laura Lucero from Collinson Daehnke on
18
            behalf of C&R Pharmacy.
19
                   MS. MUSKETT: Good morning.
20
            Eileen Muskett from Fox Rothschild on
21
            behalf of Validus.
22
                   THE REPORTER: Anyone else?
23
                   (No response.)
24
                   (Witness sworn by the
25
            reporter.)
```

```
1
                    PROCEEDINGS
 2.
                        GARY HILLIARD,
 3
     having taken an oath to tell the truth, the
 4
     whole truth, and nothing but the truth,
 5
     testified as follows:
 6
                         EXAMINATION
 7
     OUESTIONS BY MR. BOGLE:
 8
            0.
                   Good morning.
 9
            Α.
                   Good morning.
10
                   Can I get your full name,
            Q.
11
     please?
12
            Α.
                   Gary Lawrence Hilliard.
13
                   And, Mr. Hilliard, my name is
            Q.
14
     Brandon Bogle. I'm going to be asking you
15
     some questions today. Before we get into the
16
     substance, though, have you ever had your
17
     deposition taken before?
18
            Α.
                   I have not.
19
                   Okay. Just a few ground rules
            Ο.
20
     to hopefully make things go as smoothly as
     possible for us. I'm going to ask questions
21
22
     and I'd ask that you wait till I finish my
23
     question before you provide an answer, number
24
     one, to make sure you understand my question;
25
     number two, to allow the court reporter to
```

- 1 more easily transcribe things.
- 2 Does that make sense?
- A. Yes, it does.
- 4 Q. Okay. And if at any point in
- 5 time you want to take a break, just let me or
- 6 your counsel know. I'm happy to do that.
- 7 It's not an endurance contest.
- 8 The other thing is if I ask a
- 9 question that you don't hear or don't
- understand, please ask me to repeat it or
- 11 rephrase it and I will do so. Otherwise, I
- assume if you're answering my question that
- you understood it. Is that fair?
- 14 A. Yes.
- Q. Okay. Where are you currently
- 16 employed, sir?
- 17 A. Tech Data Corporation.
- Q. Where is that located?
- 19 A. The corporate office is in
- 20 Clearwater, Florida.
- Q. Okay. Are you out of
- 22 Clearwater or somewhere else?
- 23 A. I'm out of a Fort Worth
- 24 facility.
- Q. Give me just a general sketch

- of what you do at Tech Data. What is your
- 2 job?
- A. I'm a dangerous goods safety
- 4 advisor, so my role is to manage hazardous
- 5 materials for our company in the United
- 6 States, Canada and Mexico.
- 7 Q. Okay. Does Tech Data in any
- 8 way, shape or form sell, distribute or deal
- 9 in opioids?
- 10 A. No. It's all electronics.
- 11 Q. All electronics, okay.
- When did you start working for
- 13 Tech Data?
- 14 A. In September 2016.
- Q. Okay. And prior to working at
- 16 Tech Data, were you employed at McKesson?
- 17 A. I was.
- Q. Okay. Can you give me the span
- of time that you worked for McKesson?
- 20 A. From 1997 till 2016.
- Q. Okay. And why did you leave
- 22 McKesson?
- A. I was part of a workforce
- 24 reduction.
- Q. Okay. Were you given the

- opportunity to transfer to another department
- or just outright told that they were
- eliminating your position and there was no
- 4 other position for you?
- 5 A. Outright elimination.
- 6 Q. Okay. Now, the time from 1997
- 7 to 2016 while you were at McKesson, during
- 8 that entire span, were you a director of
- 9 regulatory affairs?
- 10 A. I started as a manager of
- 11 regulatory affairs.
- Q. Okay. So tell me what time
- period you were the manager.
- 14 A. It was approximately a year, so
- approximately '97-98.
- 16 Q. Okay.
- 17 A. I don't remember the exact time
- 18 frame.
- 19 Q. That approximation is good
- enough. So approximately 1998 you take over
- 21 as director of regulatory affairs. Do you
- hold that position until 2016 when you leave?
- A. That's correct.
- Q. Okay. Do you know what month
- 25 in 2016 you left?

- 1 A. July, I believe.
- Q. Okay. So give me a sense,
- 3 while you were at McKesson working at
- 4 director of regulatory affairs, what your
- 5 general job responsibilities were.
- A. My role changed over the years,
- but as I started, I had responsibility for
- 8 DEA compliance for our pharma distribution
- 9 centers within the U.S. I was over 30
- facilities, I don't recall exactly, but...
- so that entailed things such as the
- management of the SOP, the audit, ARCOS, loss
- and theft, any issue resolution; I would
- 14 assist with fiscal DEA audits, also with
- 15 corrective actions if there were any
- 16 corrective actions with that; the suspicious
- order program that was in place at the time.
- 18 Q. Okay.
- And then additionally I also
- 20 had responsibility for HAZMAT, hazardous
- 21 materials. I also had responsibility for EPA
- environmental issues, waste disposal. I also
- had responsibility for DEA registrations,
- state licensure. I was also active with the
- industry association with NWDA on working

- 1 committees for both federal and state.
- Q. Is that the -- I'm sorry, go
- 3 ahead. Keep going.
- 4 A. And did some work on the OSHA
- 5 side as well for safety.
- Q. Okay.
- 7 A. Also, I had responsibility for
- 8 FDA actions for -- as it related to our
- 9 operations.
- 10 Q. Okay. I've got a few follow-up
- 11 questions for you. Are you done? I want to
- make sure you're done.
- 13 A. That's fine.
- Q. Good. Okay. A few follow-up
- questions for you on a couple of these points
- 16 you gave me. You said you were responsible
- for the SOP. What SOP are you referring to?
- A. Section 55 is what we referred
- it to when we started. It was already in
- 20 place when I arrived at McKesson, and follow
- up on that until a migration took place,
- changes took place in the 2006 time frame.
- Q. Okay. Because you guys went
- from Section 55 to approximately 2007, you go
- to the LDMP, the Lifestyle Drug Management

- 1 Program? True?
  2 A. True.
  - Q. Okay. And then in
- 4 approximately 2008, you go to the Controlled
- 5 Substances Monitoring Program, otherwise
- 6 known as the CSMP. True?
- 7 A. True.
- 8 Q. Okay. So did you have
- 9 responsibility for -- let's do one by one.
- 10 So the Section 55 component, you had
- 11 responsibility for Section 55 in what
- 12 respect?
- 13 A. Updates and adherence for our
- operations to the policy.
- Q. For what period of time did you
- have that responsibility?
- 17 A. From '97 till 2006.
- Q. Okay. Let's talk about the
- 19 LDMP. Did you have any responsibility
- related to the LDMP?
- 21 A. I helped create that LDMP
- 22 process.
- Q. Okay. So after it was created,
- what was your responsibility in relationship
- to that program?

- 1 A. I worked with our team to
- ensure compliance with that program and to
- 3 develop it.
- Q. Okay. What about the CSMP?
- 5 What involvement did you have with the CSMP?
- 6 A. I also helped write that SOP as
- 7 well.
- 8 Q. What sort of experience did you
- 9 have with drafting SOPs prior to drafting the
- 10 LDMP, for example?
- 11 A. I had drafted SOPs in the past
- with my previous employers as well, so no
- formal training, if you will, for SOPs. But
- just -- when something needed to be revised
- or something wasn't in place and needed to be
- created, then I would work on the SOPs for
- 17 that.
- Q. Okay. Prior to drafting the
- 19 LDMP, had you had any experience drafting any
- 20 SOPs that related to suspicious order
- 21 monitoring for controlled substances?
- 22 A. Just the experience from what
- we gained from the original Section 55, and
- then the changes that were necessary as we
- developed that program.

Okay. And where did you work 1 Ο. 2 before you came to McKesson? 3 Α. FoxMeyer Drug Company. 4 Ο. What did you do for them just 5 generally? Same thing, manager of 6 Α. 7 regulatory affairs. 8 Ο. How long were you with them? 9 Α. Approximately two years. 10 Q. Immediately before McKesson? 11 Immediately before. McKesson Α. 12 acquired FoxMeyer so it was part of the 13 acquisition. 14 Ο. Gotcha. 15 Did you have any sort of 16 regulatory job prior to working at FoxMeyer? I did. 17 I worked regulatory for Α. 18 a reverse distributor of pharmaceuticals. 19 Can you say that again? Ο. 20 sorry. 21 A reverse distributor. Α. 22 Reverse distributor. Ο. 23 RDS was the name, Reverse Α. Distribution Services. 24 How long did you work for them? 25 Q.

1 Α. Two years. 2. Ο. Immediately preceding FoxMeyer? 3 Α. Correct. 4 Ο. Any other regulatory position 5 that you held prior to joining McKesson? 6 Α. I worked in environmental, and 7 so I gained an environmental background 8 through waste management, Chemical Waste 9 Management to be more specific, so we were 10 trained in EPA requirements and Department of 11 Transportation, FAA requirements as well. 12 Q. What company are you referring 13 to there? 14 Α. Chemical Waste Management. 15 Chemical Waste Management. Ο. 16 Okay. Any others prior to 17 McKesson that are regulatory-related? 18 Α. No. 19 All right. So a couple of Ο. 20 other follow-ups. You mentioned, while at 21 McKesson, having responsibility related to 22 audit processes. In what respect were you 23 responsible for audit processes at McKesson? 24 Α. I would update the audit as 25 necessary and then I'd go out to our

- 1 facilities and conduct audits.
- Q. Okay. You're talking about a
- 3 specific SOP that you would update for
- 4 audits, or what are you referring to by
- 5 "update the audit"?
- 6 A. There was an audit that was
- 7 already written and it correlated to
- 8 Section 55, and I audited against that.
- 9 Q. Okay. How long did you have
- 10 responsibility for audits?
- 11 A. From '97 till approximately
- 2014.
- Q. Okay. Just from prior
- depositions, I understand that Tracy Jonas
- also had some responsibility for audits. How
- did your responsibility for audits compare to
- 17 his?
- 18 A. So when the audit was changed
- 19 to -- we referred to it as a STARs audit, and
- so we co-wrote good portions of those audits,
- 21 and then he ultimately took over facilitation
- of the audit program.
- Q. Okay. And that would have been
- in 2014, you're saying?
- 25 A. I'm not sure when -- the STARs

- audit took place probably before 2014, but
- 2 I'm not exactly sure of the date.
- Q. Okay. All right. You
- 4 mentioned responsibilities related to
- 5 suspicious order -- I think "purchasing" was
- 6 the term you used. Maybe you used a
- 7 different term, but something related to
- 8 suspicious order monitoring or purchasing.
- 9 A. Monitoring.
- Q. What was your responsibility
- 11 there?
- 12 A. To -- adherence to our SOP.
- Q. Okay. Going back to
- 14 Section 55, the LDMP and the CSMP?
- 15 A. Correct.
- Q. During what time period did you
- have those responsibilities?
- 18 A. 1997 until -- again, I'm not
- sure when the STARs ended. It was handed off
- 20 to Dave Gustin. I don't know, 2013 -- 2014,
- 21 maybe.
- Q. An approximation is fine.
- A. I'm not sure.
- Q. I'm not going to hold you to an
- exact date. I just want to get a sense of

- what the scope is here.
- You also said you handled DEA
- 3 registrations and state licensure?
- 4 A. Correct.
- 5 Q. For what time period did you
- 6 have those responsibilities?
- 7 A. '97 till 2016.
- 8 Q. Okay. You mentioned being
- 9 actively involved in the -- I think it was
- 10 NWMA? Is that right?
- 11 A. HDMA.
- 12 Q. Right. I think you mentioned
- the predecessor term.
- 14 A. NWDA, National Wholesale Drug
- 15 Association.
- Q. Which then became the HDMA,
- 17 right?
- A. And now is NDA, I believe, yes.
- 19 Q. I think maybe HDA.
- 20 A. HDA.
- Q. I think so. It doesn't matter.
- 22 A. Okay.
- Q. Okay. What sort of committees
- were you on at NWDA?
- 25 A. I was on the federal committees

- in reference to DEA, also state committee,
- pharmaceutical waste management committee,
- 3 transportation committee.
- 4 Q. Okay. Let's talk about the
- 5 federal DEA committee. What did you do --
- 6 what was your involvement with that
- 7 committee? What did you do?
- 8 A. We would meet typically
- 9 annually and with our counterparts from other
- 10 wholesalers and sometimes manufacturers, and
- we would discuss issues that were happening,
- proposed regulations that were coming up.
- 13 That's primarily it.
- Q. Okay. And so this NWDA was a
- trade association for pharmaceutical
- 16 distributors primarily, correct?
- 17 A. That's correct.
- Q. Okay. And so as part of that
- 19 association, as a member of that association,
- you would have interactions with other
- 21 employees of other pharmaceutical
- distributors. Is that fair?
- A. That's correct.
- MR. EPPICH: Object to the
- 25 form.

```
1
                   Give me a minute to object, if
 2.
            you don't mind.
 3
      QUESTIONS BY MR. BOGLE:
 4
            Ο.
                   How frequently would you attend
 5
      meetings for NWDA, approximately?
 6
            Α.
                   Approximately twice a year.
 7
            Ο.
                   Okay. Would those meetings
 8
      generally be attended by employees of other
      pharmaceutical distributors as well?
 9
10
            Α.
                   That's correct.
11
            Ο.
                   Okay. You also mentioned
12
      having responsibility for ARCOS. Can you
13
      tell me what you did related to ARCOS?
14
            Α.
                   I would train our employees at
15
      our facilities when they needed training.
16
      would assist in problems that they may have
17
      understanding what types of code assignments
18
      would be associated with a type of
19
      transaction. If they had error reports that
20
      they needed assistance with, and any
21
      communications from ARCOS corporate, then I
22
      would typically work with them on that.
23
                   Okay. And when it came to the
            Ο.
24
      ARCOS training you're referring to, are you
25
      talking about training people at the
```

- 1 distribution centers?
- 2 A. That's correct.
- Q. All right. So from 1997 to
- 4 2007, would you have had responsibility for
- 5 regulatory compliance for all of McKesson's
- 6 distribution centers?
- 7 A. For the pharmaceutical
- 8 division.
- 9 Q. Okay. Well, let me rephrase it
- because I think that's a fair clarification.
- 11 So from 1997 to 2007, would you
- have had responsibility for compliance with
- the Controlled Substances Act as it pertained
- to all of McKesson's distribution centers?
- 15 A. That would be correct.
- 16 Q. Okay. And, now, in 2008, as I
- understand it, there were some additional
- people added to McKesson's regulatory team.
- 19 Is that true?
- A. That's correct.
- Q. Okay. And so when that change
- occurred and additional people were added, as
- I understand it, you would then have not been
- responsible for all of those distribution
- centers when it pertains to Controlled

MR. EPPICH: Object to the

```
1
     Substance Act compliance.
                                   True?
2.
```

- 3 form.
- 4 There were regional directors
- 5 and I did not have a region. So the regional
- 6 directors specifically worked with the new
- 7 programs that were being developed, whereas I
- 8 worked on other operational aspects.
- 9 QUESTIONS BY MR. BOGLE:
- 10 Okay. From the information Ο.
- 11 that I've looked at from the time period of
- 12 1997 to 2007, when it came to Controlled
- 13 Substances Act compliance at McKesson, you
- 14 guys had a three-person team which consisted
- 15 of Donald Walker, yourself, and Bruce
- 16 Russell. Is that true?
- 17 When I started, there was -- I Α.
- 18 reported to Dan White, who was a VP of
- 19 regulatory, and I reported to -- I'm sorry,
- 20 not reported. I also had a colleague that
- 21 was a director of regulatory affairs, Rolly
- 22 Blythe.
- 23 When did Mr. White leave Ο. Okay.
- 24 the company, roughly?
- 25 He transitioned to a different Α.

- 1 role, and I do not recall the date.
- Q. The other name was Rolly White,
- 3 I believe you gave me?
- 4 A. Blythe.
- 5 Q. Oh, Blythe, I'm sorry. When
- 6 did that individual cease working in
- 7 regulatory affairs, roughly?
- 8 A. He retired, and again, I don't
- 9 recall the exact time frame, but it was
- probably a few years, three, four years, in.
- 11 Q. To your tenure?
- 12 A. Correct.
- Q. What did Rolly Blythe, what did
- that person generally do during that time
- period that they were there?
- 16 A. The same role, so he was my
- predecessor, and he managed the DEA
- 18 compliance.
- 19 Q. Okay. And Mr. White, what was
- 20 his role?
- A. He oversaw the regulatory
- department, which included DEA compliance.
- O. So would he have been --
- Mr. White been in that role during the same
- time that Donald Walker was working in

```
regulatory affairs?
 1
 2.
            Α.
                   No.
 3
                   No. So did Mr. Walker sort of
            Q.
      take his role over?
 4
 5
            Α.
                   Mr. Walker took over SVP of
      operations, and then I started reporting up
 6
 7
      through him.
 8
            Ο.
                   Okay.
                   Again, I don't remember the
 9
            Α.
10
      exact time frame.
                   That's fine.
11
            Ο.
12
                   Do you agree that there is an
      ongoing opioid epidemic in this country?
13
14
            Α.
                   I don't know about opioid
15
      epi- -- sorry, epidemic, in those term- -- in
16
      that terminology.
17
                   Okay. Do you believe there's
            Q.
18
      any sort of problem in this country as it
19
      relates to opioids?
20
                   MR. EPPICH: Object to the
21
            form.
22
                   MR. PERRY: Object to form.
23
                   I don't know.
            Α.
24
      QUESTIONS BY MR. BOGLE:
25
                   You don't know, okay.
            Q.
```

```
1
                   Did you ever receive any
      training, formal or informal, about a
 2.
      potential epidemic in this country while at
 3
 4
      McKesson?
 5
                   MR. EPPICH: Object to the
            form.
 6
      QUESTIONS BY MR. BOGLE:
 7
 8
            Ο.
                   Related to opioids?
 9
                   MR. EPPICH: Object to the
10
            form.
11
            Α.
                   I don't know.
12
      QUESTIONS BY MR. BOGLE:
13
                   Did you ever have any
            Q.
14
      discussions with any of your colleagues at
15
     McKesson about a potential opioid epidemic in
16
      this country?
17
                   Not that I recall in that
            Α.
18
      frame -- of that terminology.
19
                   Okay. Any other sort of
            Q.
20
      terminology that you would utilize that you
      did have such a discussion?
21
22
                   MR. EPPICH: Object to the
23
            form.
```



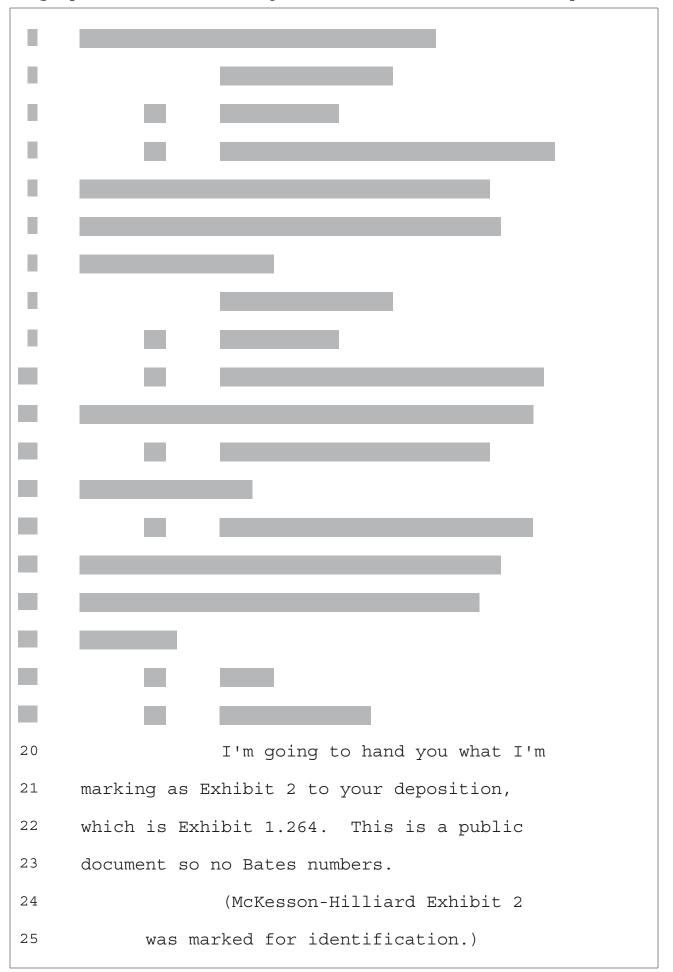
```
the term "diversion"?
 1
 2.
            Α.
                   I am.
 3
                   What do you understand that
            Q.
 4
      term to mean?
 5
                   MR. EPPICH: Object to the
                   Calls for a legal conclusion.
 6
 7
                   Controlled substance
 8
      pharmaceuticals being utilized outside the
      course of legal requirements under the CSA.
 9
10
      QUESTIONS BY MR. BOGLE:
17
      QUESTIONS BY MR. BOGLE:
18
                   All right. I'm going to hand
            Q.
19
      you what I'm marking as Exhibit 1.1651, which
20
      is also Exhibit 1 to your deposition, and
21
      that's MCKMDL00498169.
22
                    (McKesson-Hilliard Exhibit 1
23
            was marked for identification.)
      QUESTIONS BY MR. BOGLE:
24
25
                   There you go, sir.
            Q.
```

1 Okay, Mr. Hilliard. What I've handed you as Exhibit 1 you see is an e-mail 2 on the first page and then sort of a 3 PowerPoint slide deck behind it. 4 Do you see that? 5 Α. I see that. 6 7 Okay. And starting with the Q. 8 e-mail on the first page, you see that's an e-mail from Donald Walker dated May 2, 2012, 9 to several individuals, including yourself, 10 11 right? 12 Α. I see that.









```
QUESTIONS BY MR. BOGLE:

Q. Okay. You see here this is a

document from the U.S. House of
```

- 4 Representatives Committee on Energy and
- 5 Commerce from May 4, 2018.
- Do you see that?
- 7 A. I see that.
- 8 Q. Okay. And it's -- the
- 9 regarding line says: Hearing entitled
- 10 "Combatting the Opioid Epidemic: Examining
- 11 Concerns About Distribution and Diversion."
- Do you see that there?
- 13 A. I do see that.
- Q. Okay. Have you followed the
- outcomes of any of these congressional
- hearings on the opioid epidemic?
- 17 A. I have not.
- 18 Q. You said you were aware of
- 19 them, right?
- 20 A. I am aware of them but I have
- 21 not followed them. I've been out of
- 22 pharmaceuticals for a while now.
- Q. If you look at the second page
- of this document, underneath the chart it
- says: The U.S. continues to experience an

- opioid epidemic, which has worsened over the
- last two decades. Opioid-involved overdose
- deaths are the leading cause of injury death
- 4 in the U.S. and take the lives of 115
- 5 Americans per day.
- Is that a statistic you've seen
- 7 before?
- 8 MR. EPPICH: Objection,
- 9 foundation.
- 10 A. It is not.
- 11 QUESTIONS BY MR. BOGLE:
- 12 Q. "According to a recent report
- issued by the Centers for Disease Control and
- 14 Prevention (CDC), prescription or illicit
- opioids were involved in nearly two-thirds of
- all drug overdose deaths in the U.S. during
- 17 2016 a 27.7 percent increase from 2015. In
- total, more than 351,000 people have died
- since 1999 due to an opioid-involved
- 20 overdose."
- 21 And then it says: The crisis
- has become so severe that the average life
- expectancy declined in 2016 from the previous
- year, largely because of opioid overdoses.
- Do you see that?

```
1
                   MR. EPPICH: Objection,
 2.
            foundation.
 3
            Α.
                   I see it on the page.
      OUESTIONS BY MR. BOGLE:
 4
 5
                   Okay. And the information I
            Q.
      read to you, those last three sentences
 6
 7
      there, any of that information you were aware
 8
      of prior to today?
 9
            Α.
                   T was not.
10
            Ο.
                   And so from our discussion at
11
      the beginning of the deposition, you worked
12
      at McKesson for, what, just shy of 20 years,
13
      right?
14
            Α.
                   Correct.
15
                   Okay. And so during that time
            Ο.
16
      period, did you have the belief that
17
      protecting the health and safety of the
18
     public should be the most important
19
      consideration for a pharmaceutical
20
      distributor like McKesson?
                   MR. EPPICH: Object to the
21
22
            form.
23
            Α.
                   I don't know.
24
      QUESTIONS BY MR. BOGLE:
25
                   Okay. Did you ever consider
            Q.
```

```
what sort of considerations should be most
```

- important for your job as you performed it?
- MR. EPPICH: Object to the
- 4 form.
- 5 A. We complied with the CSA
- 6 requirements.
- 7 QUESTIONS BY MR. BOGLE:
- 8 Q. Okay. Did you ever consider
- 9 why those requirements existed?
- MR. EPPICH: Object to the
- 11 form.
- 12 QUESTIONS BY MR. BOGLE:
- Q. What their purpose was?
- MR. EPPICH: Object to the
- 15 form.
- 16 A. Protection of the supply chain
- under controlled substances.
- 18 QUESTIONS BY MR. BOGLE:
- Q. When you mean -- when you say
- "protection of the supply chain," what do you
- 21 mean by that?
- 22 A. Controlled substances stay in
- legitimate markets.
- Q. And why would it be important
- for controlled substances to stay in

```
legitimate markets --
 1
 2.
                   MR. EPPICH: Object to the
 3
            form.
      QUESTIONS BY MR. BOGLE:
 4
 5
                   -- from your understanding?
            Q.
                   MR. EPPICH: Object to the
 6
 7
                   Foundation.
            form.
 8
            Α.
                   It's a requirement of the CSA.
 9
      QUESTIONS BY MR. BOGLE:
10
            Q.
                   Okay. Anything beyond that?
11
                   MR. EPPICH: Same objections.
12
            Α.
                   I don't know.
13
      QUESTIONS BY MR. BOGLE:
14
                   Okay. While you were with
            Ο.
15
     McKesson, the company was a distributor of
16
      controlled substances, right?
17
            Α.
                   That's correct.
18
                   Okay. And those controlled
            Q.
19
      substances included opioid products, right?
20
            Α.
                   That's correct.
21
                   Okay. And opioid products are
            Q.
22
      generally in the class of drugs known as
23
      narcotics, right?
24
                   MR. EPPICH: Object to the
25
            form; foundation.
```

- 1 A. Some of them can be.
- 2 QUESTIONS BY MR. BOGLE:
- Okay. Are you aware of any
- 4 opioids that are nonnarcotic?
- 5 MR. EPPICH: Same objections.
- 6 A. Not that I recall.
- 7 OUESTIONS BY MR. BOGLE:
- 8 Q. We talked about this a little
- 9 bit at the beginning of the deposition, but
- in your role as manager and then director of
- 11 regulatory affairs, you would have had
- responsibility for having understanding of
- the Controlled Substances Act, right?
- 14 A. Correct.
- 15 O. And the Controlled Substances
- 16 Act itself, you understand, is designed to
- prevent the diversion of controlled
- substances like opioids, right?
- MR. EPPICH: Object to the
- form. Calls for a legal conclusion.
- 21 A. I don't know.
- 22 OUESTIONS BY MR. BOGLE:
- Q. Okay. Do you have any sense as
- to what the purpose of the Controlled
- 25 Substances Act was while you worked at

```
McKesson?
 1
 2.
            Α.
                   To prevent diversion.
 3
            Q.
                   Okay. And under the Controlled
      Substances Act while you were with McKesson,
 4
 5
      one of McKesson's responsibilities was to
      have effective controls against diversion,
 6
 7
      right?
 8
            Α.
                   That's correct.
 9
                   MR. EPPICH: Object to the
                   Calls for a legal conclusion.
10
11
      QUESTIONS BY MR. BOGLE:
                   Another responsibility under
12
            Q.
13
      the Controlled Substances Act while you were
14
      with McKesson would be to monitor for
15
      suspicious controlled substances orders,
16
      right?
17
                   MR. EPPICH: Object to the
18
                   Calls for a legal conclusion.
19
            Α.
                   We followed the processes and
20
      procedures that we had in place that were to
21
      comply with the CSA requirements.
22
      QUESTIONS BY MR. BOGLE:
23
                   Okay. But did you have an
            Ο.
24
      understanding while you were at McKesson that
```

the company had a responsibility to monitor

25

```
for suspicious orders --
 1
 2.
                   MR. EPPICH: Same objections.
 3
      QUESTIONS BY MR. BOGLE:
                   -- for controlled substances?
 4
            Ο.
 5
            Α.
                   We did monitor for controlled
 6
      substance orders.
 7
                   Okay. Did you know where that
            Ο.
      responsibility came from?
 8
 9
            Α.
                   CSA requirements.
10
            Ο.
                   Okay. And while you were at
     McKesson, did you also understand that there
11
12
      was a responsibility to report suspicious
13
      orders when they were detected to the DEA?
14
                   MR. EPPICH: Object to the
15
                   Calls for a legal conclusion.
16
            Α.
                   The process was to report
17
      controlled substances orders according to the
18
      SOP.
     QUESTIONS BY MR. BOGLE:
19
20
                   Okay. And the SOP required
            Ο.
21
      that if suspicious orders were detected, they
22
      were to be reported to the DEA, correct?
23
                   MR. EPPICH: Object to the
24
            form.
```

They were reported to the DEA.

Α.

25

- QUESTIONS BY MR. BOGLE: 1 2. Ο. Okay. When you say "they," we're talking about suspicious orders, right, 3 4 for controlled substances? 5 Α. That's correct. 6 Ο. Okay. And did you also 7 understand while you were at McKesson that 8 the company was to block any orders that it deemed suspicious? 10 MR. EPPICH: Object to the 11 form. 12 Α. That was not a requirement of 13 the CSA. 14 QUESTIONS BY MR. BOGLE: 15 Okay. At any point in time Ο. 16 while you were at the company? 17 MR. EPPICH: Object to the 18 Calls for a legal conclusion. 19 Α. We made changes, developed 20 changes to our processes, and -- with the 21 CSMP program, and so with the CSMP program 22 that program did block. 23 QUESTIONS BY MR. BOGLE:
- 24 Okay. Do you have an Ο.
- 25 understanding as to why the CSMP blocked

```
suspicious orders?
 1
 2.
                   MR. EPPICH: Object to the
 3
            form.
     QUESTIONS BY MR. BOGLE:
 4
 5
                   Why that was a component of it?
            Q.
                   MR. EPPICH: Object to the
 6
 7
            form.
 8
            Α.
                   A guidance document provided by
     Rannazzisi.
 9
     QUESTIONS BY MR. BOGLE:
10
11
                   And do you recall when you
            Q.
12
      first saw that quidance document?
13
                   MR. EPPICH: Object to the
14
            form.
15
            Α.
                   Approximately 2006.
16
      QUESTIONS BY MR. BOGLE:
17
                   Okay. And so prior to
            Ο.
18
      receiving that document in approximately
19
      2006, it was your personal belief that there
20
      was no responsibility for McKesson to block
21
      suspicious orders. Is that true?
22
                   MR. EPPICH: Object to the
23
            form. Calls for a legal conclusion.
24
            A.
                   It was not a requirement of the
      CSA.
25
```

- 1 QUESTIONS BY MR. BOGLE:
- Okay. And so if I'm
- understanding your testimony correctly, prior
- 4 to the implementation of the CSMP in 2008, it
- was not McKesson's policy to block suspicious
- 6 orders. Is that true?
- 7 MR. EPPICH: Object to the
- 8 form.
- 9 A. Blocking of the orders was not
- 10 a requirement under the CSA.
- 11 QUESTIONS BY MR. BOGLE:
- 12 Q. Yeah. I'm just asking whether
- it was a company policy to block suspicious
- orders prior to 2008. I'm not asking about
- 15 the CSA right now.
- MR. EPPICH: Object to the
- form.
- A. We complied with requirements
- 19 under the CSA.
- QUESTIONS BY MR. BOGLE:
- Q. Yeah. I'm just asking whether
- prior to 2008 when the CSMP was implemented,
- was it McKesson's policy to not block
- suspicious orders when they were detected?
- MR. EPPICH: Object to the

1 form. 2. We complied with the CSA Α. requirements. 3 QUESTIONS BY MR. BOGLE: 4 5 Okay. I quess I don't Q. understand how that applies to my question. 6 7 I'm just asking if you guys blocked 8 suspicious orders prior to 2008. 9 MR. EPPICH: Object to the 10 form. 11 Blocking was not a requirement. Α. 12 QUESTIONS BY MR. BOGLE: 13 So the answer is no, that that Q. 14 wasn't done --15 MR. EPPICH: Object to the 16 form. QUESTIONS BY MR. BOGLE: 17 18 -- prior to 2008? Q. 19 We complied with the CSA Α. 20 requirements. 21 Okay. I got that that's your Q. 22 answer, but I'm trying to just get a specific 23 answer to a specific question, which is to 24 nail down in time when McKesson, to your

understanding, started blocking suspicious

25

```
orders for controlled substances. Can you
 1
 2.
      tell me when that started occurring?
 3
            Α.
                   The CSMP, which was about 2008.
 4
            Ο.
                   Okay. I'm going to hand you
 5
      what I'm marking as Exhibit 3, which is
      1.1464, and that's MCKMDL00478906.
 6
 7
                    (McKesson-Hilliard Exhibit 3
            was marked for identification.)
 8
 9
      QUESTIONS BY MR. BOGLE:
10
                   And you see this is a letter
            Ο.
11
      from the U.S. Department of Justice Drug
12
      Enforcement Administration dated
13
      September 27, 2006.
14
                   Do you see that?
15
            Α.
                   I see that.
16
                   Is this the quidance document
            Ο.
17
      from Mr. Rannazzisi that you were referring
18
      to a minute ago?
                   Yes, it is.
19
            Α.
20
            Ο.
                   Okay. So you've seen this
21
      document before. True?
22
            Α.
                   Yes.
23
                   Okay. I want to look at a
            Ο.
24
      couple of components of this letter. It
      says, in the first line: This letter is
25
```

- 1 being sent to every commercial entity in the
- 2 United States registered with the Drug
- 3 Enforcement Administration (DEA) to
- 4 distribute controlled substances. The
- 5 purpose of this letter is to reiterate the
- 6 responsibilities of controlled substance
- 7 distributors in view of the prescription drug
- 8 abuse problem our nation currently faces.
- 9 Do you see that?
- 10 A. I see that.
- 11 Q. The term "reiterate" is used
- there in that sentence. What do you
- understand the term "reiterate" to mean?
- MR. EPPICH: Object to the
- form. Foundation.
- 16 A. This is written by
- 17 Mr. Rannazzisi. I don't know what he's
- 18 referring to, reiterate.
- 19 QUESTIONS BY MR. BOGLE:
- Q. I'm just asking if you
- understand what the term "reiterate" means.
- MR. EPPICH: Asked and
- answered.
- 24 A. I don't know.
- 25 --000--

```
QUESTIONS BY MR. BOGLE:
 1
 2.
            Ο.
                   You don't know what the term
 3
      "reiterate" means in general use?
 4
                   MR. EPPICH: Object to the
 5
            form.
                   Foundation.
                   I don't know.
 6
            Α.
 7
      OUESTIONS BY MR. BOGLE:
 8
            Ο.
                   Okay. Going down to the third
 9
      paragraph in this letter, I'm looking at the
10
      sentence that starts with "Distributors are,
11
      of course."
12
                   Do you see that in the middle
13
      of the paragraph?
14
            Α.
                   Third paragraph? Yes, I see
15
      that now.
16
                   All right. It says:
            Ο.
17
      Distributors are, of course, one of the key
18
      components of the distribution chain. If the
      closed system is to function properly as
19
20
      Congress envisioned, distributors must be
21
      vigilant in deciding whether a prospective
22
      customer can be trusted to deliver controlled
23
      substances only for lawful purposes.
24
                   Do you see that?
25
            Α.
                   Yes, I see that.
```

```
Ο.
                   Okay. Do you agree with that
 1
 2.
      sentence?
 3
                   MR. EPPICH: Object to the
                   Foundation.
 4
            form.
                   I don't know.
 5
            Α.
      QUESTIONS BY MR. BOGLE:
 6
 7
                   You don't have an opinion one
            Ο.
 8
      way or the other whether that's an accurate
 9
      statement?
10
            Α.
                   No, I don't.
11
                   Okay. Do you have any opinion
            Q.
12
      as to whether McKesson should have at all
13
      times been vigilant in deciding which
14
      customers got controlled substances from
      them?
15
16
                   MR. EPPICH: Object to the
17
            form.
18
                   I don't know.
            Α.
19
      QUESTIONS BY MR. BOGLE:
20
                   Okay. And it says -- it goes
            Ο.
21
           This responsibility is critical, as
22
      Congress has expressly declared that the
23
      illegal distribution of controlled substances
      has a substantial and detrimental effect on
24
25
      the health and general welfare of the
```

American people. 1 2. Do you see that? 3 Α. Yes, I see that. 4 Ο. Okay. Do you agree that 5 illegal distribution of controlled substances has a substantial and detrimental effect on 6 7 the health and general welfare of the 8 American people? 9 MR. EPPICH: Object to the 10 form. Foundation. 11 Α. I don't know. 12 QUESTIONS BY MR. BOGLE: 13 Okay. Is that something you Q. 14 ever considered while you were at McKesson, 15 that concept? 16 MR. EPPICH: Object to the 17 form. 18 I don't recall. Α. 19 QUESTIONS BY MR. BOGLE: 20 Okay. Going to the second page Ο. 21 here of the letter, the third paragraph that 22 starts with "The statutory factors." 23 Do you see that? 24 Α. Yes, I see that. 25 Q. It says there: The statutory

- 1 factors DEA must consider in deciding whether
- to revoke a distributor's registration are
- 3 set forth in 21 U.S.C. 823(e). Listed first
- 4 among these factors is the duty of
- distributors to maintain effective controls
- 6 against diversion of controlled substances
- 7 into other than legitimate medical,
- 8 scientific, and industrial channels.
- 9 Do you see that?
- 10 A. Yes, I see that.
- 11 Q. And you're familiar with that
- portion of the regulations, right?
- MR. EPPICH: Object to the
- 14 form.
- 15 A. I don't recall.
- 16 OUESTIONS BY MR. BOGLE:
- Q. Okay. If you go to the next
- paragraph, it starts with: The DEA
- 19 regulations require all distributors to
- 20 report suspicious orders of controlled
- 21 substances.
- Do you see that?
- A. Yes, I see that.
- Q. Okay. And you understand that
- at all times that you were with McKesson that

- the DEA regulations did require distributors
- to report suspicious orders of controlled
- 3 substances?
- 4 MR. EPPICH: Object to the
- 5 form. Calls for a legal conclusion.
- 6 A. It was under the CSA.
- 7 QUESTIONS BY MR. BOGLE:
- 8 Q. Right. So you knew that's
- 9 something that McKesson was supposed to do
- 10 under the CSA, right?
- MR. EPPICH: Same objections.
- 12 A. Yes, I recall.
- 13 QUESTIONS BY MR. BOGLE:
- Q. Okay. The next paragraph that
- starts with "It bears emphasis," do you see
- 16 that?
- 17 A. Yes, I see that.
- 18 Q. It says: It bears emphasis
- that the foregoing reporting requirement is
- in addition to, and not in lieu of, the
- 21 general requirement under 21 U.S.C. 823(e)
- that a distributor maintain effective
- 23 controls against diversion.
- Do you see that sentence?
- A. Yes, I see that.

```
1
            Ο.
                   Were you aware while you were
 2.
      at McKesson that these were two different
 3
      concepts and that there was a reporting
 4
      requirement and a separate requirement to
 5
      maintain effective controls against
      diversion?
 6
 7
                   MR. EPPICH: Object to the
 8
                   Calls for a legal conclusion.
                   I don't recall.
 9
            Α.
      QUESTIONS BY MR. BOGLE:
10
11
                   Okay. While you were working
            Ο.
12
      at McKesson, did you operate as if there were
13
      two separate requirements, a reporting
14
      requirement and also a requirement to have
15
      effective controls against diversion?
16
                   MR. EPPICH: Object to the
17
            form.
18
                   I don't recall.
            Α.
19
      QUESTIONS BY MR. BOGLE:
20
                          It goes on and says:
            Ο.
                   Okay.
21
      Thus, in addition to reporting all suspicious
22
      orders, a distributor has a statutory
23
      responsibility to exercise due diligence to
24
      avoid filling suspicious orders that might be
25
      diverted into other than legitimate medical,
```

```
scientific, and industrial channels.
 1
 2.
                   Do you see that?
 3
            Α.
                   I see that.
 4
            Ο.
                   Okay. And that's referring to
 5
      the requirement to block suspicious orders
      when they're detected, right?
 6
 7
                   MR. EPPICH: Object to the
 8
            form.
                   Foundation.
 9
            Α.
                   I'm not sure.
10
      QUESTIONS BY MR. BOGLE:
11
                   Okay. What do you think that
            Q.
12
      refers to, then?
13
                   I don't know.
            Α.
14
            Ο.
                   Okay. So do you have any
15
      understanding of what that -- what he's
16
      getting at there in that sentence?
17
                   I don't know.
            Α.
18
                   Okay. Do you recall ever
            Ο.
19
      asking any of your colleagues to help you
20
      understand what Mr. Rannazzisi was saying in
21
      that sentence that I just read?
22
            Α.
                   Not that I recall.
23
            Ο.
                   Okay. Do you ever recall
24
      reaching out to anyone at the DEA asking them
25
      to explain to you what was meant by the
```

```
sentence I just read?
```

- 2 A. Not that I recall.
- Q. Okay. That would have fallen
- within your purview, though. If the DEA's
- view is that this is part of McKesson's
- 6 responsibilities under the Controlled
- 7 Substances Act in 2006 time frame, that would
- 8 have been within your purview of your
- 9 responsibilities, right?
- MR. EPPICH: Object to the
- form. Assumes facts not in evidence.
- 12 A. I don't recall.
- 13 OUESTIONS BY MR. BOGLE:
- 0. Okay. I think we talked about
- earlier in the deposition that compliance
- 16 with the Controlled Substances Act would have
- been part of your responsibilities in this
- 18 time frame, right?
- 19 A. That's correct.
- Q. Okay. So if the DEA --
- 21 Mr. Rannazzisi from the DEA is indicating
- here that there's a requirement here, a
- regulatory requirement, to avoid filling
- suspicious orders of controlled substances,
- would that not have fallen within your



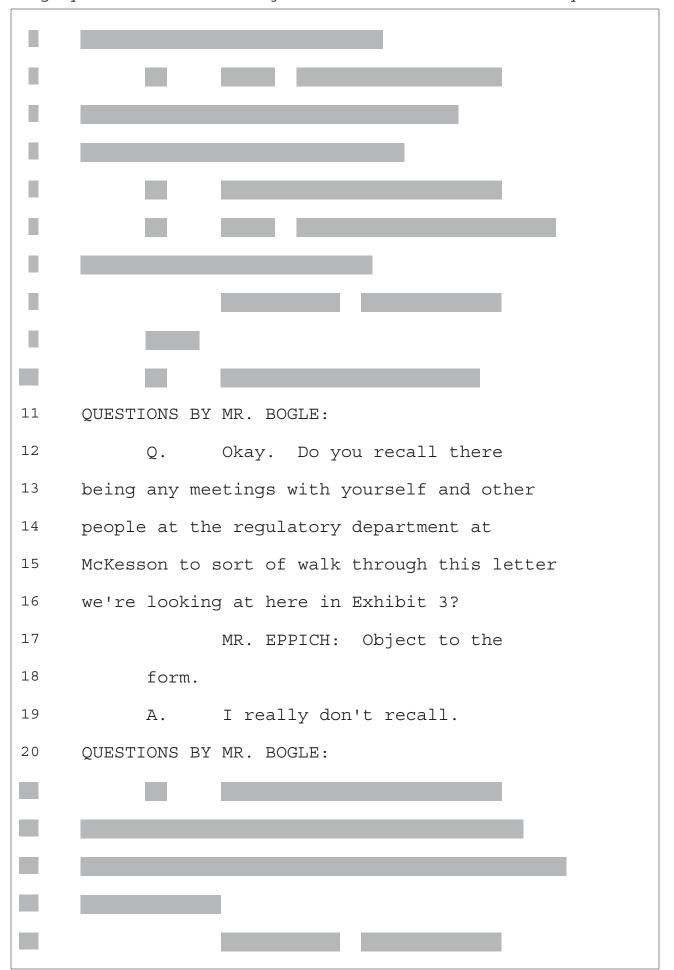
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l	
l	
I	
QUE:	STIONS BY MR. BOGLE:
1	Q. Okay. The next paragraph down
2 say:	s: In a similar vein, given the
3 requ	uirement under Section 823(e) that a
4 dis	tributor maintain effective controls
aga:	inst diversion, a distributor may not
sim <sub>]</sub>	ply rely on the fact that the person
7 plac	cing the suspicious order is a DEA
3 reg	istrant and turn a blind eye to the
9 susj	picious circumstances. Again, to maintain
effe	ective controls against diversion as
l Sect	tion 823(e) requires, the distributor
2 show	uld exercise due care in confirming the
3 leg	itimacy of all orders prior to filling.
1	Do you see that?
5	A. Yes, I see that.

```
1 Q. The last sentence I just read
```

- there, what do you understand that to mean?
- MR. EPPICH: Objection to the
- 4 form; foundation.
- 5 A. I'm not sure what it means.
- 6 QUESTIONS BY MR. BOGLE:
- 7 Q. Okay. So while you were
- 8 working at McKesson after you read this
- 9 letter, you were unclear on what was meant by
- that last sentence there about confirming the
- legitimacy of all orders prior to filling?
- MR. EPPICH: Object to the
- form. Misstates prior testimony.
- 14 A. I don't recall what I thought
- 15 at that time.
- 16 OUESTIONS BY MR. BOGLE:
- Q. Okay. But as you read it here
- today, you're not sure what is meant by that.
- 19 Is that true?
- MR. EPPICH: Same objections.
- 21 A. I don't recall.
- 22 QUESTIONS BY MR. BOGLE:
- Q. No. I'm asking what you think
- today.
- A. I don't know.

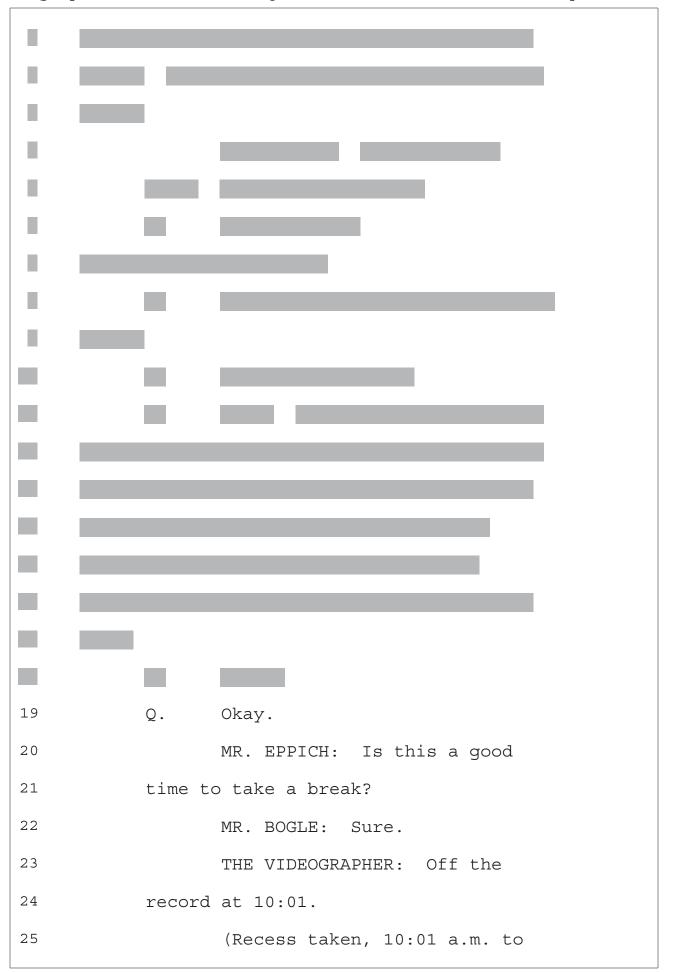
- 1 Q. Okay. You don't have an
- opinion about what that means?
- 3 A. No.
- Q. Okay. But we can agree that
- 5 you did perform regulatory compliance,
- 6 including for the Controlled Substances Act
- 7 for McKesson, all the way up until about two
- 9 years ago, right?
- 9 A. That's correct.
- 10 Q. Okay. And we can also agree
- this is a letter that you would have read in
- your course of employment at McKesson, right?
- 13 A. That's correct.
- Q. Did you follow up with anyone
- at DEA about any of -- anything in this
- letter that you were unclear on?
- 17 A. Not that I recall.
- Q. Did you follow up with any of
- 19 your colleagues at McKesson about anything in
- this letter that you felt you were unclear
- 21 on?
- 22 A. I don't recall.











```
10:16 a.m.)
 1
 2.
                   THE VIDEOGRAPHER: All right,
 3
            stand by. The time is 10:16, back on
 4
            the record.
                         Beginning of File 2.
 5
      QUESTIONS BY MR. BOGLE:
 6
            Ο.
                   Mr. Hilliard, I want to go back
 7
      just a step here and talk a little bit about
 8
      sort of the hierarchy of the regulatory
 9
      department while you were at McKesson.
10
      let's focus on while you were director of
11
      regulatory affairs, which I think you told me
12
      was roughly 1998 to 2016.
13
                   So during that time frame, as
14
      director of regulatory affairs, who would
15
      have been your superiors in the regulatory
16
      department?
17
                   Dan White, and when I started
            Α.
18
      in '97 to -- again, I don't remember the
19
      exact time frame, a couple of years; and then
20
      Ron Bone.
21
                   What was his title?
            Ο.
22
            Α.
                   SVP, operations.
23
                   And that's senior vice
            Ο.
24
      president?
25
            Α.
                   Yes, correct.
```

- Q. All right. Of operations?

  A. Correct.

  Q. Okay.
- 4 A. Regulatory rolled up under
- 5 that.
- Q. Okay.
- 7 A. Don Walker after that. And
- 8 then at some point there, Bruce Russell came
- 9 in between us and I reported directly to
- 10 Bruce instead of Don.
- Q. Okay.
- 12 A. And then it was back to Don
- directly, and then finally to Krista Peck.
- Q. What was her job title?
- A. SVP of regulatory department.
- 16 QUESTIONS BY MR. BOGLE:
- 17 Q. Okay.
- 18 A. That's not the exact -- correct
- title, but SVP of regulatory.
- Q. And again, when you say "SVP,"
- it means senior vice president.
- 22 A. Senior vice president.
- Q. I just want to make sure the
- record is clear. I think I know what you
- mean but I want to make sure it's clear.

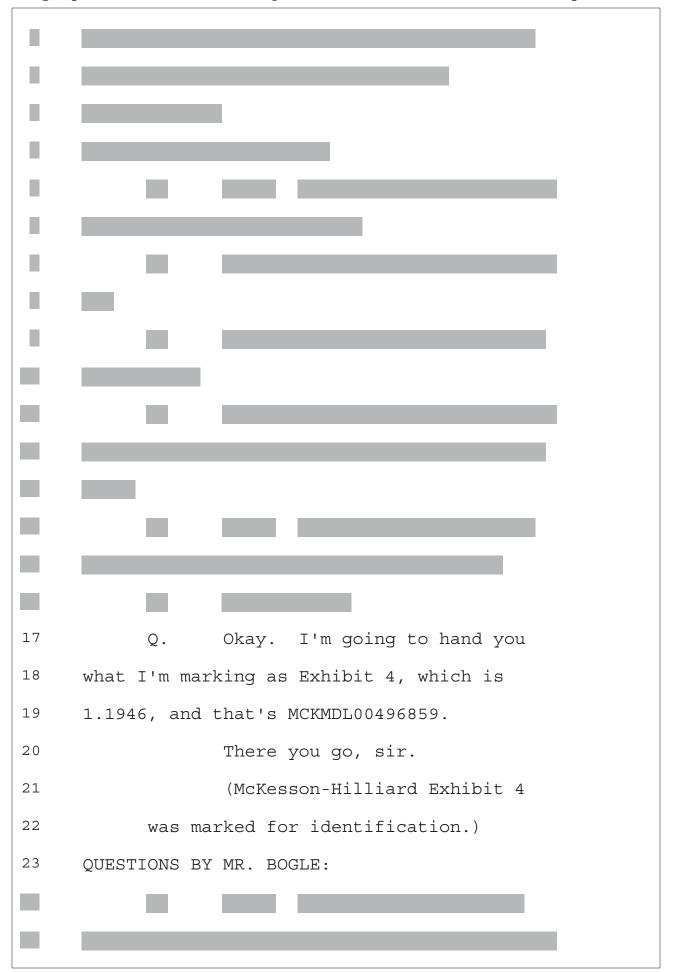
- Okay. Let me ask it to you
- this way just so I understand. So at all
- times from 1998 to 2016, would there have
- 4 only been one position in the regulatory
- 5 department higher than yours on the corporate
- 6 ladder?
- 7 A. No, because at the time point
- 8 for which I reported to Bruce Russell, he
- 9 would have been a VP, and then Bruce would
- 10 have reported to Don, so there would have
- been one additional level there.
- 12 Q. Okay. So in what time period
- would that have been where there was two
- levels above yours?
- 15 A. I would say 2000, early --
- first part of the 2000s. I'm not sure how
- 17 far that goes into.
- 18 Q. Okay.
- 19 A. I don't remember when Bruce
- 20 retired.
- 21 Q. Okay.
- A. I want to say 2014, he retired,
- 23 approximately.
- Q. Okay. So from this time period
- from 1998 to 2016, there were points in time

- where there's one person, one position higher
- than yours in the regulatory department, and
- 3 some points in time where there's two
- 4 positions higher than yours in the regulatory
- 5 department. Am I understanding that right?
- A. That's correct.
- 7 Q. Okay. So as director of
- 8 regulatory affairs, then, from '98 to 2016,
- 9 were there positions below yours in the
- regulatory department, people that reported
- 11 to you?
- 12 A. I had one direct report.
- Q. Okay. And during what time
- 14 period?
- 15 A. Approximately 2013 to 2016.
- Q. Okay. Who was that?
- 17 A. Cynthia. My mind is going
- blank on her last name. All she managed was
- 19 licensure for our facilities.
- Q. Okay. All right. Shifting
- gears a little bit, then -- actually, strike
- that.
- Again, when we started the
- deposition, you listed off quite a few
- different areas of responsibility that you

- 1 had over time in the regulatory department.
- 2 Did you consider each of the areas that you
- had responsibility for to be important areas,
- 4 important things to you?
- 5 MR. EPPICH: Object to the
- 6 form.
- 7 A. My job was important to me.
- 8 QUESTIONS BY MR. BOGLE:
- 9 Q. Okay. And did you feel that
- you had an important job for McKesson
- generally, that you held an important role at
- the company?
- MR. EPPICH: Object to the
- 14 form.
- 15 A. In my opinion, I felt worthy
- and important to the company.
- 17 QUESTIONS BY MR. BOGLE:
- Q. Okay. I guess my question is a
- 19 little different. Did you feel like your
- 20 position itself was an important position to
- the company, that it performed important
- functions to the company?
- MR. EPPICH: Object to the
- 24 form.
- A. In my opinion, I felt it was

important. 1 QUESTIONS BY MR. BOGLE: 2 QUESTIONS BY MR. BOGLE: 22 Okay. And do you recall the 23 Q. Lakeland distribution center at all, that it 24 existed? 25









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```
1
            Ο.
                   Okay. And you knew in 2005
 2.
      that that was part of McKesson's obligations
 3
      were to report suspicious orders of
 4
      controlled substances when they were -- to
 5
      the DEA when they were discovered, right?
 6
                   MR. EPPICH: Object to the
 7
                   Calls for a legal conclusion.
12
                   MR. BOGLE: Okay.
                                       Move to
13
            strike as nonresponsive.
14
      QUESTIONS BY MR. BOGLE:
15
                   My question simply was:
            0.
16
      understood at this point in 2005, by
17
      September 2005, that there was an obligation
18
      for McKesson to report suspicious orders to
19
      the DEA when they were discovered.
20
                   MR. EPPICH: Object to the
21
            form.
                   Foundation.
22
            Α.
                   McKesson did report suspicious
23
      orders to the DEA.
24
      QUESTIONS BY MR. BOGLE:
```

Q.

Okay.

25

```
1
                   MR. BOGLE: Move to strike as
 2.
            nonresponsive.
 3
      QUESTIONS BY MR. BOGLE:
                   My question was simply: You
 4
            Ο.
 5
      did have an understanding as of 2005 that
 6
      there was an obligation for McKesson to
 7
      report suspicious orders to the DEA when they
 8
      were discovered.
                        True?
 9
                   MR. EPPICH: Object to the
10
            form; calls for a legal conclusion,
11
            asked and answered.
12
            Α.
                   We submitted the reports to the
13
      DEA for the controlled substance suspicious
14
      order reports.
15
      OUESTIONS BY MR. BOGLE:
16
                   Okay. And why would you do
            Ο.
17
      that, then?
18
            Α.
                   That was the agreed reporting
19
      mechanism for the suspicious order that was
20
      created from the Suspicious Order Task Force
21
      that DEA had agreed was the methodology.
22
                   What time period are you
            Ο.
23
      referring to?
24
            Α.
                   Approximately '95.
25
            Q.
                   Okay. So before you were with
```

the company. 1 2. Α. That's correct. 3 Q. Okay. So you were not a member 4 of any such task force, right? 5 Α. That's correct. 6 Ο. Okay. And so anything that you 7 would know about the task force came to you from somebody other than yourself, right? 8 9 You don't have any firsthand knowledge of 10 that. 11 MR. EPPICH: Object to the 12 form. 13 QUESTIONS BY MR. BOGLE: 14 Q. True? 15 Α. I was not there. 16 Right. So you don't have any Q. 17 firsthand knowledge of it, true? 18 MR. EPPICH: Object to the 19 form. 20 I was not at the meeting. Α. 21 QUESTIONS BY MR. BOGLE: 22 Okay. So therefore you could Ο. 23 not have any firsthand knowledge, right? 24 MR. EPPICH: Object to the 25 form.

- 1 A. I was not -- I did not attend
- the meeting of the task force.
- 3 QUESTIONS BY MR. BOGLE:
- Q. Okay. Do you know of anyone
- 5 from McKesson that did?
- A. I don't recall.
- 7 Q. Okay. Did you keep any written
- 8 documentation from the DEA that would have
- 9 come from this task force you're referencing
- that says, you know, the DEA -- this is our
- stamp of approval that this is the mechanism
- that we approved to report suspicious orders?
- MR. EPPICH: Objection --
- 14 QUESTIONS BY MR. BOGLE:
- Q. Did you keep a file like that?
- MR. EPPICH: Object to the
- form.
- 18 A. I don't recall if there was a
- 19 form associated with the outcome of that
- meeting.
- 21 QUESTIONS BY MR. BOGLE:
- Q. Okay. I'm just asking if you
- had any sort of documentation that you kept
- for yourself to make sure that you felt
- comfortable that that was the proper

```
reporting mechanism.
 1
 2.
                   MR. EPPICH: Object to the
 3
            form.
                   Vague.
 4
                   Through my career, whenever I
 5
     had information from the DEA, then I would
      maintain copies of it.
 6
 7
      QUESTIONS BY MR. BOGLE:
 8
            Ο.
                   Okay. So if you had any
 9
      correspondence from the DEA that said that
10
      this was a reporting mechanism they signed
11
      off on, you would have kept that, right?
12
                   MR. EPPICH: Object to the
13
            form.
14
            Α.
                   I wasn't at the meeting, so I
15
      don't have -- I didn't have any documentation
16
      on that, I don't recall having documentation
17
      on that.
18
                   But as I said, throughout the
19
      course of my career, if I did receive some
20
      type of letter, like an extension to DEA
```

QUESTIONS BY MR. BOGLE:

Q. So let's go to page .10 then.

registrations, then we would maintain that

letter.

21

22

23



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```
7
     QUESTIONS BY MR. BOGLE:
 8
            Ο.
                   You would agree with me that
     the primary responsibility for investigating
 9
10
     suspicious orders or suspicious customers or
11
     suspicious activity for a customer falls on
12
     McKesson, right? For any product it's
13
     selling.
14
                   MR. EPPICH: Object to the
15
            form; foundation. Calls for a legal
16
            conclusion.
17
                   Okay. Restate the question.
            Α.
18
     QUESTIONS BY MR. BOGLE:
19
            Q.
                   Sure.
20
                   You would agree the primary
21
     responsibility for investigating suspicious
22
     orders or suspicious activity of a customer
     of McKesson's falls primarily on McKesson,
23
24
     right?
25
                   MR. EPPICH: Object to the
```

```
1
            form.
                   Foundation. Calls for a legal
 2.
            conclusion.
 3
                   I'm not sure.
            Α.
      QUESTIONS BY MR. BOGLE:
 4
 5
                   Okay. Is that not the way that
            Q.
      you performed your job, with that sort of
 6
      belief in mind?
 7
 8
                   MR. EPPICH: Object to the
 9
            form.
                   Foundation. Calls for a legal
10
            conclusion.
11
            Α.
                   I don't know.
12
      QUESTIONS BY MR. BOGLE:
13
                   You don't know? Okay.
            Q.
14
                   So when you came in to work
15
      every day as director of regulatory affairs,
16
      would you or would you not have the mindset
17
      that the primary responsibility to make sure
18
      that we're not putting out suspicious orders
      of controlled substances falls on us as
19
20
     McKesson?
21
                   MR. EPPICH: Object to the
22
            form.
```

```
3
     OUESTIONS BY MR. BOGLE:
 4
            Q.
                   Yeah, I quess I'm asking the
 5
     question a little differently than that,
 6
     though.
              What I'm asking is: When you came
 7
     to work every day from 1997 to 2016 and were
 8
     director of regulatory affairs at McKesson,
     with what you've said is an important job,
10
     did you take that job to mean that the
11
     primary responsibility for making sure that
12
     suspicious orders didn't go out to customers
13
      fell on McKesson as opposed to somebody else?
14
                   MR. EPPICH: Object to the form
15
            to the extent it calls for a legal
16
            conclusion.
17
                   I don't recall what I thought
            Α.
18
     when I walked into the office each day.
19
     QUESTIONS BY MR. BOGLE:
20
            Ο.
                   Okay. Do you ever recall a day
21
     at work where you sat down and said, "I've
22
     got to make sure, as director of regulatory
23
     affairs, that suspicious orders do not go to
     customers from McKesson when it comes to
24
25
     controlled substances"?
```

1 MR. EPPICH: Object to the 2. form. 3 I don't recall what I thought Α. 4 when I sat down each day. 5 QUESTIONS BY MR. BOGLE: Okay. Any day, that thought 6 Ο. 7 cross your mind that you can think of? 8 MR. EPPICH: Object to the form; asked and answered. 9 10 Not from 10 years ago. Α. 11 QUESTIONS BY MR. BOGLE: 12 Q. What about from two years ago? 13 I wasn't involved in the DRA Α. 14 CSMP process at that point in time. 15 Q. What about five years ago? 16 MR. EPPICH: Same objections. 17 Asked and answered. 18 I don't recall. Α. 19 QUESTIONS BY MR. BOGLE:

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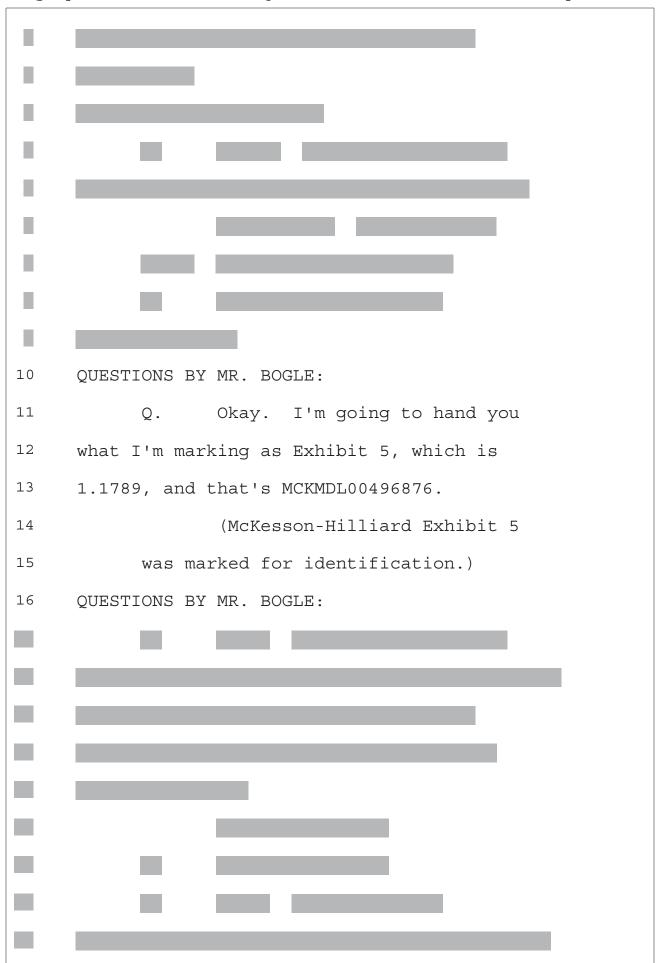


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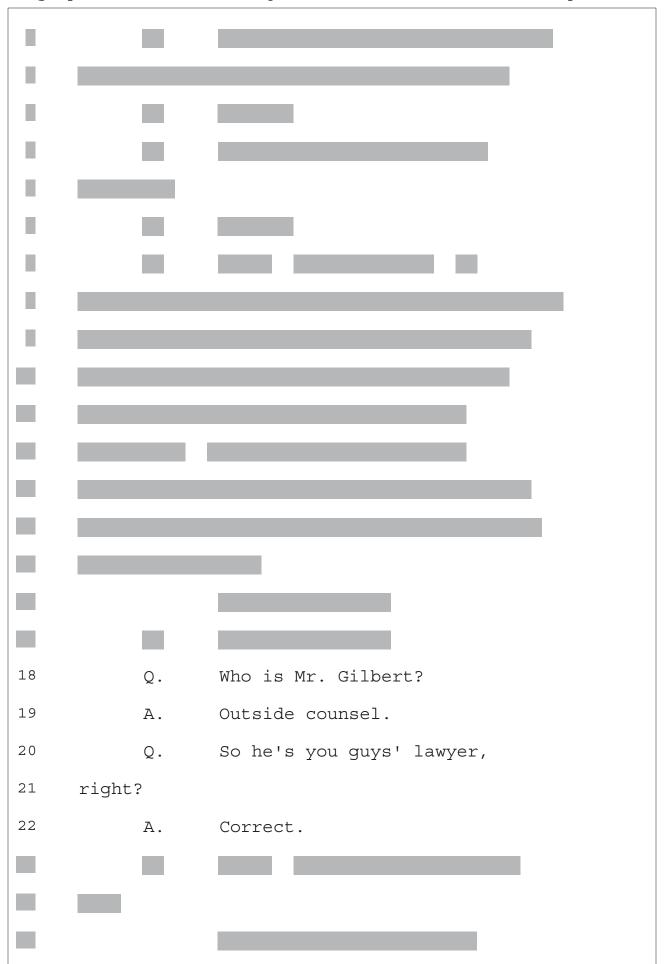


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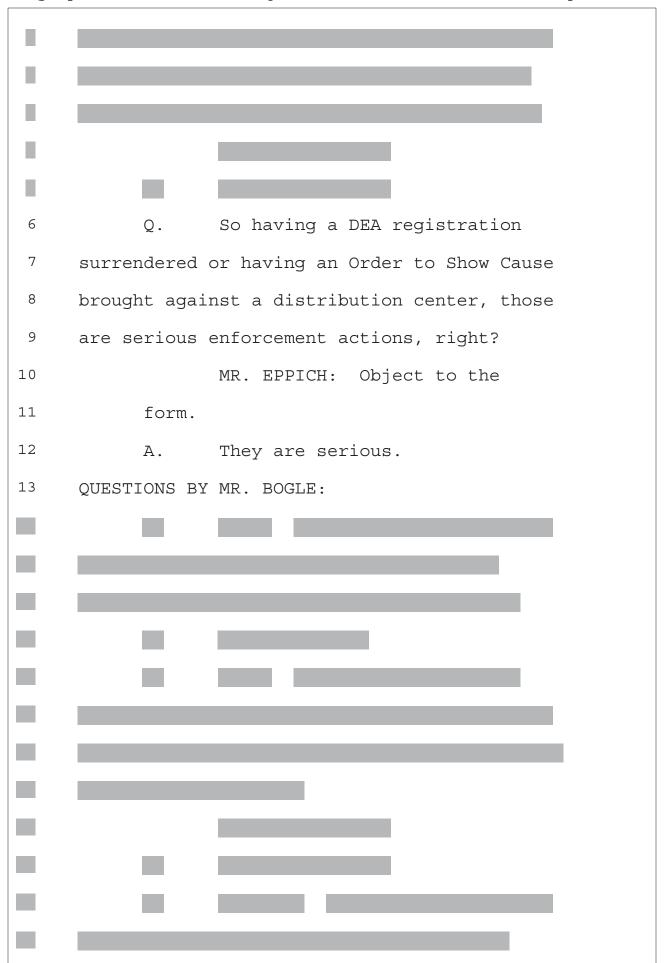


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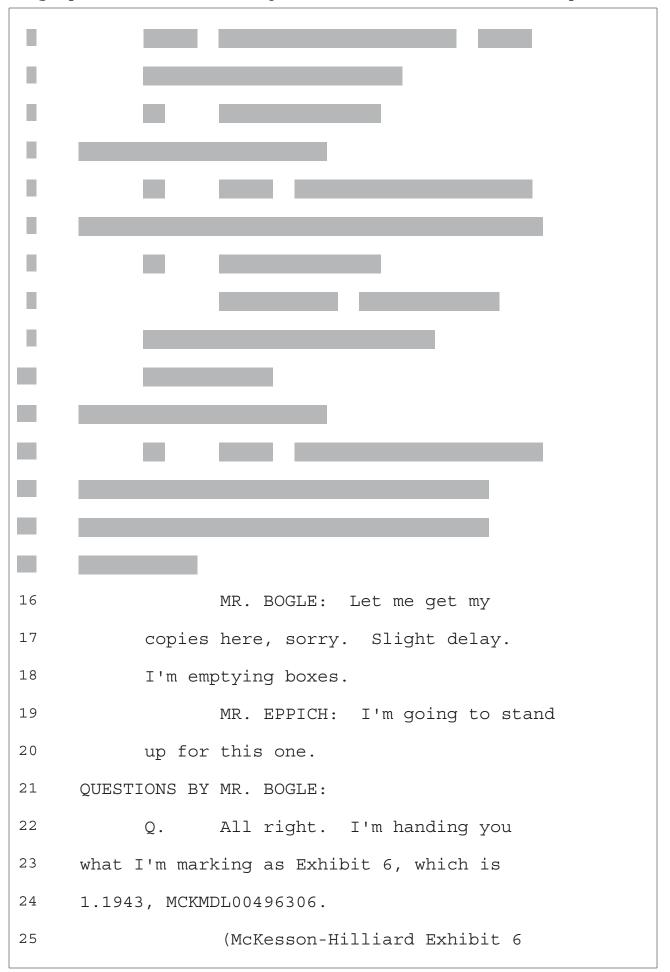


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Case: 1:17-md-02804-DAP Doc#: 1964-26 Filed: 07/23/19 132 of 356 PageID #: 163905 Highly Confidential Expression Further Confidential Expression



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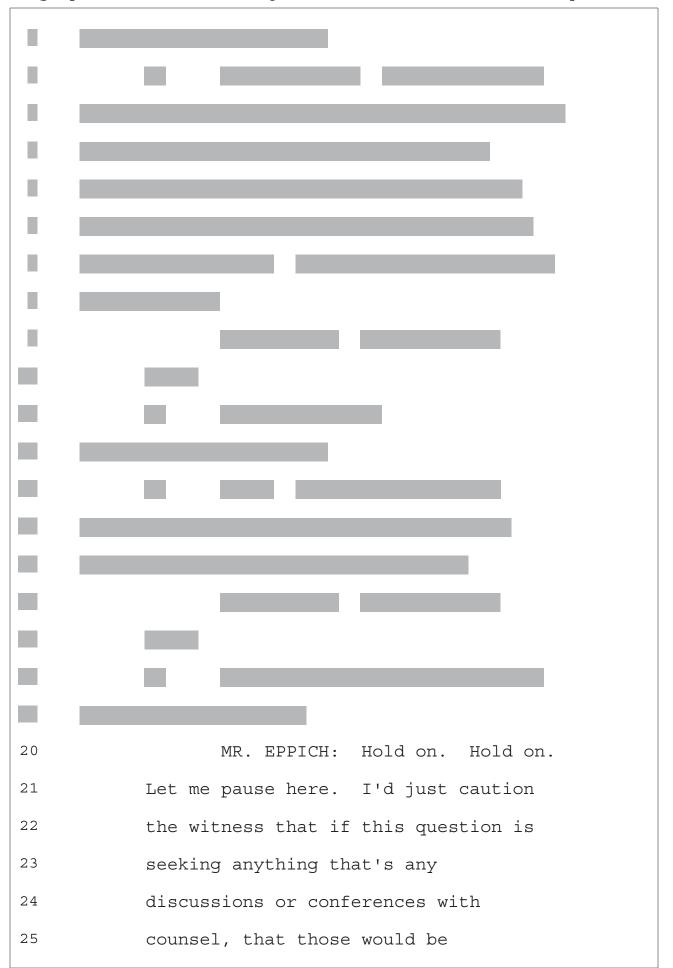


Case: 1:17-md-02804-DAP Doc#: 1964-26 Filed: 07/23/19 134 of 356 PageID # 163907 Highly Confidential Exercise



Case: 1:17-md-02804-DAP Doc#: 1964-26 Filed: 07/23/19 135.of 356 PageID #: 163908 Highly Confidential #: 163908 Further Confidential #: Review







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Case: 1:17-md-02804-DAP Doc#: 1964-26 Filed: 07/23/19 143.of 356. PageID #: 163916 Highly Confidential Expression Further Confidential Expression Review

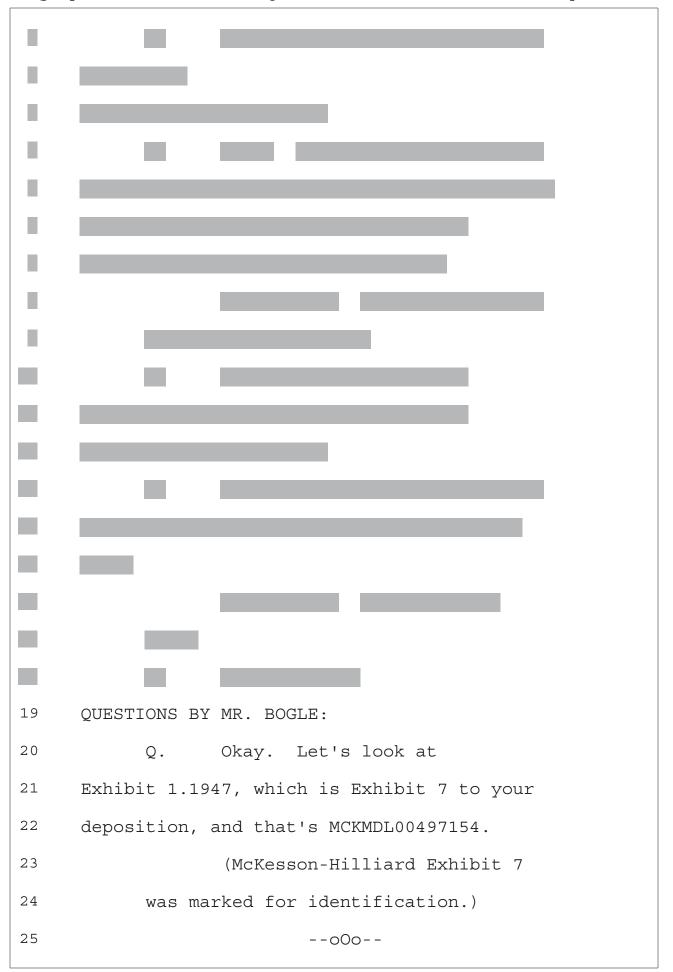


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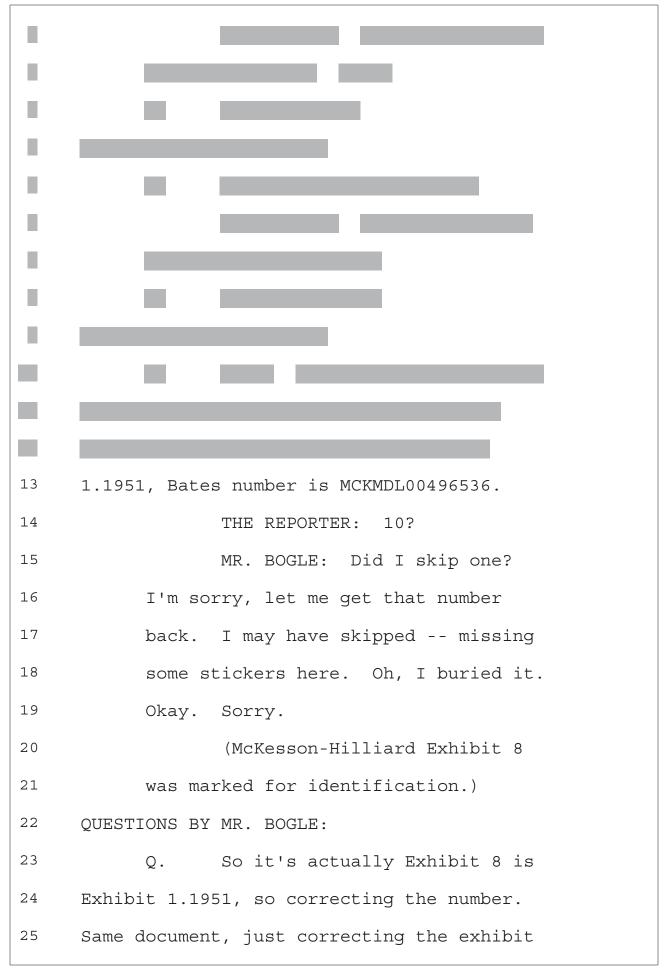


Case: 1:17-md-02804-DAP Doc#: 1964-26 Filed: 07/23/19 151 of 356 PageID #: 163924 Highly Confidential #: 1800 Ject to Further Confidential #: Review



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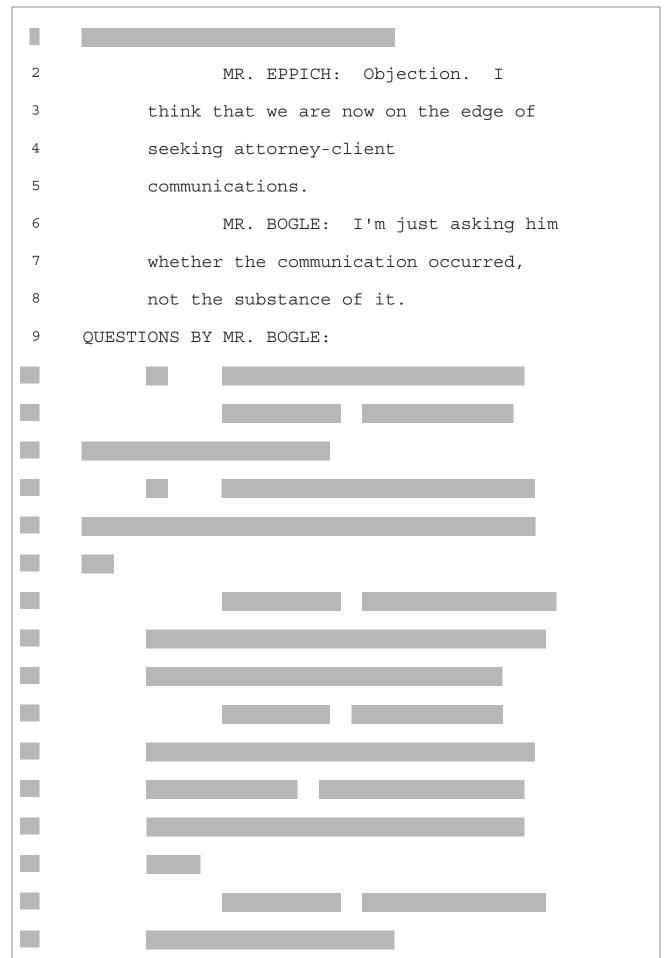


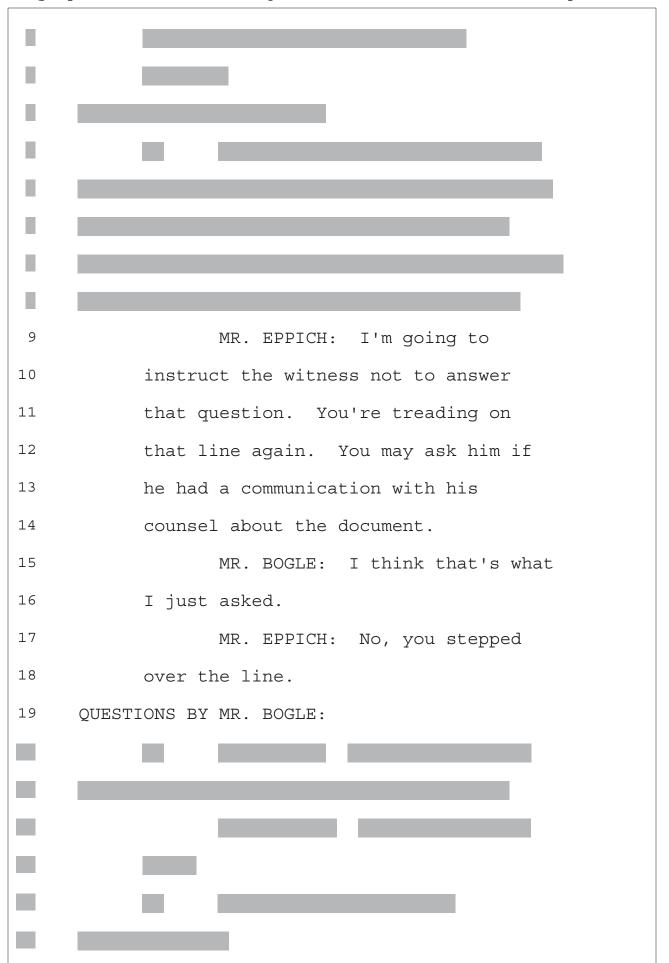
Case: 1:17-md-02804-DAP Doc#: 1964-26 Filed: 07/23/19 156.of 356 PageID #: 163929 Highly Confidential Expression



Case: 1:17-md-02804-DAP Doc#: 1964-26 Filed: 07/23/19 157 of 356 PageID # 163930 Highly Confidential # Review







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1	
9	MR. EPPICH: Brandon, let's go
10	ahead and take a break.
11	MR. BOGLE: Okay.
12	THE VIDEOGRAPHER: Off the
13	record at 11:34.
14	(Recess taken, 11:34 a.m. to
15	11:45 a.m.)
16	THE VIDEOGRAPHER: All right,
17	stand by. The time is 11:45, back on
18	the record. Beginning of File 3.
19	QUESTIONS BY MR. BOGLE:
20	Q. All right, Mr. Hilliard, I want
21	to shift gears to a different topic here with
22	you. We talked a little bit earlier just
23	briefly about the DU45 report.
24	Do you recall that discussion
25	generally?

- 1 A. Yes.
- Q. Okay. And also talked a little
- 3 bit about Section 55 generally.
- Do you recall that discussion?
- 5 A. Yes.
- 6 Q. Okay. So Section 55 was the
- 7 standard operating procedure that was in
- 8 place when you joined McKesson that was meant
- 9 to be the Suspicious Order Monitoring Program
- 10 for the company. True?
- MR. EPPICH: Object to the
- 12 form.
- 13 A. There was a section within
- 14 Section 55 that contained that type of
- 15 information.
- 16 OUESTIONS BY MR. BOGLE:
- 17 Q. Okay. So it was included
- within Section 55. True?
- 19 A. Correct.
- Q. Okay. I think you told me, I
- just want to make sure I understand. When
- you joined the company in 1997, Section 55,
- and specifically the components with the
- suspicious order monitoring provisions, were
- 25 already in place. True?

- 1 A. Correct.
- Q. Okay. And the DU45 was one of
- 3 the reports listed in Section 55 that would
- 4 be produced and submitted to the DEA,
- 5 correct?
- A. That's correct.
- 7 Q. Okay. I'll take a look at a
- 8 few components of Section 55 here. So I'm
- 9 going to hand you what I'm marking as
- Exhibit 9, which is 1.1555. The Bates number
- 11 is MCKMDL00346554.
- 12 (McKesson-Hilliard Exhibit 9
- was marked for identification.)
- 14 QUESTIONS BY MR. BOGLE:
- 15 Q. When I read all those Bates
- numbers, you can ignore me. I'm supposed to
- do that, unfortunately. I won't be asking
- you Bates number quizzes, I can promise you
- 19 that.
- A. Thank you.
- Q. Okay. What I've handed you
- here is the Drug Operations Manual,
- Section 55, dated July 2000, correct?
- 24 A. That is correct.
- Q. Okay. And again, I think you

```
said this, but you're familiar with this
 1
 2
     manual, correct?
 3
            Α.
                   Yes, I am.
 4
            Ο.
                   All right. Let's go to -- ah
 5
      jeez, wrong page number. Page .29. Sorry.
 6
            Α.
                   I'm sorry, repeat that?
 7
            Ο.
                   .29?
 8
            Α.
                   .29.
 9
            Ο.
                   Yes, sir.
10
                   Okay. On this page, you see
11
      there's a section (c) titled Daily Controlled
12
      Substance Suspicious Order Warning Report,
13
      and then it's listed a bunch of other stuff,
14
      but including DU45L500.
                   Do you see that?
15
16
            Α.
                   Yes, I see that.
17
                   Okay. So this section here
            Ο.
18
      talks about the daily version of the DU45
19
      report.
               True?
20
                   Yes.
            Α.
21
                   Okay. And if you go down to
            Q.
22
      the next paragraph, it says: The same
23
      factors that are used for the Customer Recap
24
      Variance -- and then it gives a description
25
      of the report -- are also used for the Daily
```

```
Controlled Substance Suspicious Order Warning
 1
 2
      Report.
 3
                   Then it says: 3X monthly
 4
      average for Schedule II and Schedule III
 5
      reportables and 8X/monthly averages for
 6
      IIIN-V.
 7
                   Do you see that?
 8
            Α.
                   Yes, I see that.
 9
                   Okay. So I want to break that
            Ο.
10
      down and make sure it's clear on what that
11
              So both for the DU45 reports run
      means.
12
      daily and monthly, an order would appear on
13
      the report for any controlled substance
14
      that's in Schedule II or Schedule III if the
15
      order was three times the average for
16
      customers of McKesson for that product.
17
      True?
18
                   MR. EPPICH: Object to the
19
            form.
20
                   It was three times the monthly
            Α.
21
      average for 12-month sales and it was for
22
      Schedule II and III narcotics.
23
      QUESTIONS BY MR. BOGLE:
24
                   Okay. So included within that
            Q.
```

would be opioids, right?

25

- 1 A. Correct.
- Q. Okay. So you said a 12-month
- history, so let's talk about how that worked.
- 4 Was it a 12-month same customer history that
- 5 this number would be derived from?
- A. Yes, that's correct.
- 7 Q. Okay. So, for example, you
- 8 would look at the 12 months for X pharmacy,
- 9 the prior 12 months, and you would do what
- with that data to determine how the three
- times average would be generated?
- MR. EPPICH: Object to the
- form; foundation.
- 14 QUESTIONS BY MR. BOGLE:
- Q. Walk me through that process.
- 16 A. The system is taking 12 months'
- worth of sales history based on that item and
- then adds a factor of three times, I'm sorry,
- three times the average, and if the orders
- exceed that threshold then it shows up on the
- 21 report.
- Q. Okay. And so an average is
- generated from the prior 12 months. Does
- that roll over every month so it's looking at
- a new 12-month period?

```
1
                   MR. EPPICH: Object to the
 2.
            form.
 3
            Α.
                   As I recall, it's a rolling
 4
      12-month period.
 5
      QUESTIONS BY MR. BOGLE:
 6
            Q.
                   Right. So we'll walk through
 7
      this just to make sure it's clear. So let's
 8
      say, for example, we're in February 2007.
      The prior 12 months' data that would be
 9
10
      looked at for February 2007 would be the 12
11
      months prior to that month.
                                   True?
12
            Α.
                   Correct.
13
                   Okay. So, for example, when
            Q.
14
      you go to March 2007, that would then include
15
      the February 2007 data and the first month
16
      from the prior 12 months would drop off the
      analysis.
17
                 True?
18
                   I believe that to be correct.
            Α.
19
            Ο.
                   Okay. So if a customer's
20
      orders for a given month did not exceed three
21
      times their prior 12-month average, they
22
      would not appear on the DU45 report. True?
23
                   That's correct.
            Α.
24
                   Okay. Were there any other
            Ο.
25
      calculations that went into the DU45 report
```

- other than the prior 12 months' average and
- looking at three times that average, if it
- hits that, it gets kicked to the report? Any
- 4 other variables?
- MR. EPPICH: Object to the
- 6 form.
- 7 A. Not to my knowledge.
- 8 QUESTIONS BY MR. BOGLE:
- 9 Q. Okay. All right. I want to
- 10 look at a DU45 report that was produced to
- 11 us. You may want to keep this exhibit kind
- of just near you, but I want to look at a
- sample DU45 with you.
- 14 All right. I'm going to hand
- you what I'm marking as Exhibit 10, which is
- 16 1.2100. Bates number is MCKMDL00660789.
- 17 (McKesson-Hilliard Exhibit 10
- was marked for identification.)
- 19 QUESTIONS BY MR. BOGLE:
- Q. Here's your version. I
- shouldn't say "version," they're all the
- same, but your copy. It's beefy.
- Okay. And what I've handed
- you, Mr. Hilliard, I'll represent to you was
- produced to us as part of this litigation as

- being a DU45 report from -- I believe it's
- the Oklahoma City distribution center. I
- 3 think you can determine that on the second
- 4 page of the document, that that's the
- 5 distribution center this pertains to. Let me
- 6 know if you disagree with that.
- 7 A. Yes. This does appear to come
- 8 from the Oklahoma City distribution center.
- 9 Q. Okay. And going back to the
- first page, this is noted to be a monthly
- 11 report that I'm showing you here, right?
- 12 A. That is correct.
- Q. Okay. And it's dated
- 14 April 3rd, 2007. That's the date on the
- 15 first page, right?
- 16 A. That's what's stated on the
- 17 first page.
- 18 Q. Okay. So you obviously have an
- understanding and knowledge of DU45 reports.
- Is what I'm showing you here consistent with
- what a DU45 report would look like, a monthly
- 22 report?
- 23 A. Yes.
- Q. Okay. Now, these would -- so
- 25 this would be submitted to the DEA on a

```
monthly basis, correct? This version.
 1
 2.
            Α.
                   That's correct.
                   MR. EPPICH: Object to the
 3
 4
            form.
      QUESTIONS BY MR. BOGLE:
 5
                   And just looking, for example,
 6
            Ο.
 7
      at a few of these pages, I'm looking at the
 8
      second page, which is Bates ending 0790,
      there's three fentanyl orders listed here for
 9
10
      this customer, right?
11
                   MR. EPPICH: Objection,
12
            foundation.
13
                   Fentanyl is listed here, yes.
            Α.
14
      QUESTIONS BY MR. BOGLE:
15
                   Okay. Fentanyl being an opioid
            0.
     product, right?
16
17
                   MR. EPPICH: Objection,
18
            foundation.
19
                   Yes, it is.
            Α.
20
      QUESTIONS BY MR. BOGLE:
21
                   Okay. And go to the next page,
            Q.
22
      for example, there's an order listed for this
23
      customer for oxycodone, an oxycodone
      combination product, right?
24
25
            Α.
                   That's what's stated, yes.
```

```
Ο.
                   Okay. Again, another opioid,
 1
 2
      right?
 3
            Α.
                   Yes, that's correct.
 4
            Ο.
                   Okay. If you flip over to the
 5
      next page, Bates page ending 0792, there are
 6
      what I count to be 11 separate orders here
 7
      for this customer, again, all for various
      opioid products, right?
 8
                   MR. EPPICH: Objection,
 9
10
            foundation.
11
                   That is what's listed here.
            Α.
12
      QUESTIONS BY MR. BOGLE:
13
                   Okay. And I'm not going
            Q.
14
      through every page here, but just one more
15
      just to show you.
                   Page 0793, for this customer,
16
17
      there are -- looks like nine different orders
18
      for either hydrocodone or oxycodone listed
19
      here, right?
20
                   That is what's listed.
            Α.
21
            Ο.
                   Okay. And so what's listed in
22
      this report, for example, at this time
23
      period, April 2007, would have been orders
24
      that were placed by a customer, filled by
25
      McKesson, and then appeared on this report
```

```
thereafter and sent to the DEA, right?

MR. EPPICH: Object to the

form. Calls for speculation.
```

- 4 A. That would have been the
- 5 process.
- 6 QUESTIONS BY MR. BOGLE:
- 7 Q. Right. Because these are all
- 8 sales. This product was provided to the
- 9 customers, right? Everything listed in this
- 10 report.
- MR. EPPICH: Object to the
- form, the characterization.
- 13 A. That is my recollection.
- 14 QUESTIONS BY MR. BOGLE:
- Q. Right. So the DU45 report is
- listing sales, not just the order prior to
- the sale, right?
- MR. EPPICH: Object to the
- form, characterization.
- A. My recollection is it contains
- the sales.
- 22 QUESTIONS BY MR. BOGLE:
- Q. Right. And, for example, if
- you see on 0793 in the left-hand column,
- there's actually invoice numbers and invoice

```
dates for each of these, right?
 1
 2.
            Α.
                   Yes, there is.
 3
                   And you invoice at the time of
            Q.
 4
      sale, right?
 5
                   MR. EPPICH: Objection;
 6
            foundation, calls for speculation.
 7
                   I don't recall if it was the
 8
      time of sale or date of shipment.
 9
      QUESTIONS BY MR. BOGLE:
                   Or of shipment, okay.
10
            Q.
11
            Α.
                   Shipment date.
12
            Q.
                   All right. So, for example,
13
      what we've got here as Exhibit 10 is, I
14
      believe, about 600-plus pages of what
     McKesson deemed for this month to be
15
16
      suspicious Schedule II or Schedule III
17
      controlled substance orders, right?
18
                   MR. EPPICH: Objection to the
19
            form.
20
                   These are what showed up on our
            Α.
21
      suspicious order report as -- and then
22
      reported to the DEA.
23
      QUESTIONS BY MR. BOGLE:
24
            Ο.
                   Right. But what the whole
25
      purpose of this was, you're providing 600 --
```

- in this instance, 600-plus pages to the DEA
- 2 for this month of suspicious controlled
- 3 substance sales that McKesson had made from
- 4 the prior month, right?
- 5 MR. EPPICH: Objection to the
- form and the characterization.
- 7 A. They were submitted for DEA to
- 8 review. The report is titled "suspicious"
- 9 but it's orders that need to be reviewed and
- they were supplied to DEA for review.
- 11 QUESTIONS BY MR. BOGLE:
- Q. Okay. So let me make sure I
- understand that. So when these reports would
- have been submitted to the DEA, it was not
- the intent of the regulatory department for
- the conclusion to be drawn that McKesson
- believed these were suspicious orders. Is
- 18 that true?
- MR. EPPICH: Object to the
- form; calls for speculation.
- 21 A. This was part of the Suspicious
- 22 Order Task Force. This was the format for
- which industry came to the conclusion to
- provide this information to the DEA and DEA
- was good with it. There was DEA inspections

- that had occurred in our facilities and there
- was never an issue with that. So this is the
- format for which the original documentation
- 4 was supplied to DEA.
- MR. BOGLE: I move to strike as
- 6 nonresponsive.
- 7 QUESTIONS BY MR. BOGLE:
- 8 Q. My question was simply that
- 9 during the time that you were with McKesson
- in the regulatory department, was it your
- understanding that the intent was when a DU45
- report like the one we're looking at here was
- supplied to the DEA, was that -- was that
- intended to or not intended to be what
- McKesson deemed to be suspicious orders from
- the prior month?
- MR. EPPICH: Object to the
- form. It calls for speculation; asked
- and answered.
- 20 A. Yeah. Again, it was -- this is
- 21 what needed to be reviewed. This was not
- specifically a suspicious order.
- 23 OUESTIONS BY MR. BOGLE:
- Q. Okay. So the view during this
- time period when DU45s were used were that

```
this is not specifically a suspicious order
```

- 2 report. Am I understanding you right?
- MR. EPPICH: Object to the
- form. Misstates prior testimony.
- 5 QUESTIONS BY MR. BOGLE:
- 6 Q. If I'm misstating it, let me
- 7 know. I'm trying to understand.
- 8 A. The title was Suspicious Order
- 9 Report or Suspicious Purchase Report, but
- 10 this -- with the vast quantity of orders that
- are conducted on a daily and nightly basis,
- this provides a threshold for which to
- 13 review.
- 14 And so reviews would be
- conducted nightly on the reports and they'd
- be flagged and then submitted to the DEA, and
- then the report in its entirety would be
- provided to the DEA on a monthly basis. So
- they would have all this information.
- Q. Right. I'm asking about from
- McKesson's perspective, though, not DEA's
- 22 perspective. So from McKesson's perspective
- as you understood it in the regulatory
- department -- strike that, let me make it
- even easier.

Your perspective while you were 1 2. in the regulatory department when the DU45s 3 were used, did you understand these reports to be suspicious order reports from the prior 4 5 month? MR. EPPICH: Objection to the 6 7 Calls for a legal conclusion. 8 Asked and answered. Again, this was a -- an 9 Α. 10 identifier for review. This didn't mean that 11 every order on here was suspicious. 12 QUESTIONS BY MR. BOGLE: 13 Okay. So I think we talked Q. 14 about this earlier, but you do understand 15 that during this time period, 2007, for 16 example, that the Controlled Substances Act 17 did require distributors to report suspicious 18 orders, right? 19 Α. Correct.

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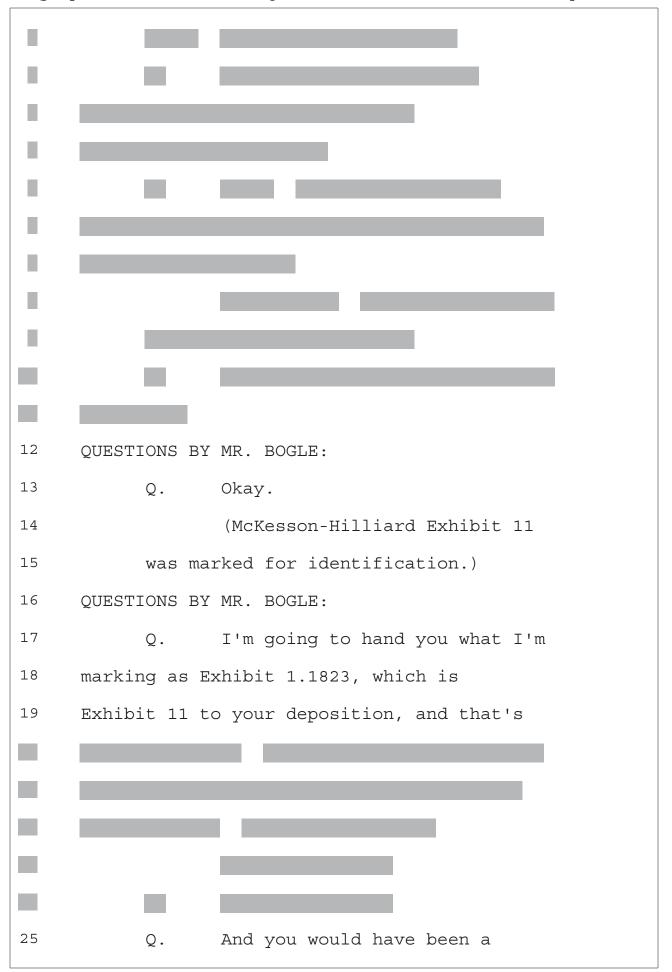


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member of HDMA at this point in time, right? 1 I was a member during this 2 Α. time. 3 Okay. What does HDMA stand Q. 4 for? 5 Healthcare Distribution 6 Α. 7 Management Association. And again, that was y'all's 8 Ο. trade association, right? 9 10 Α. That's correct. 

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3 Okay. I'll hand you what I'm Q. marking as Exhibit 12, which is 1.1667, and 4 5 that's MCKMDL00510747. (McKesson-Hilliard Exhibit 12 6 7 was marked for identification.) 8 QUESTIONS BY MR. BOGLE: 9 All right. And we're going to Q. 10 walk through from back to front here, but 11 just starting at the front, you see that top 12 e-mail there is one that you're copied on, 13 right? 14 Α. Yes, I am copied on it. 15 And you understand sort of how Ο. 16 e-mails work; once you appear on this e-mail, 17 the ones prior to it, you would also have 18 been able to view, right? 19 Α. Okay.

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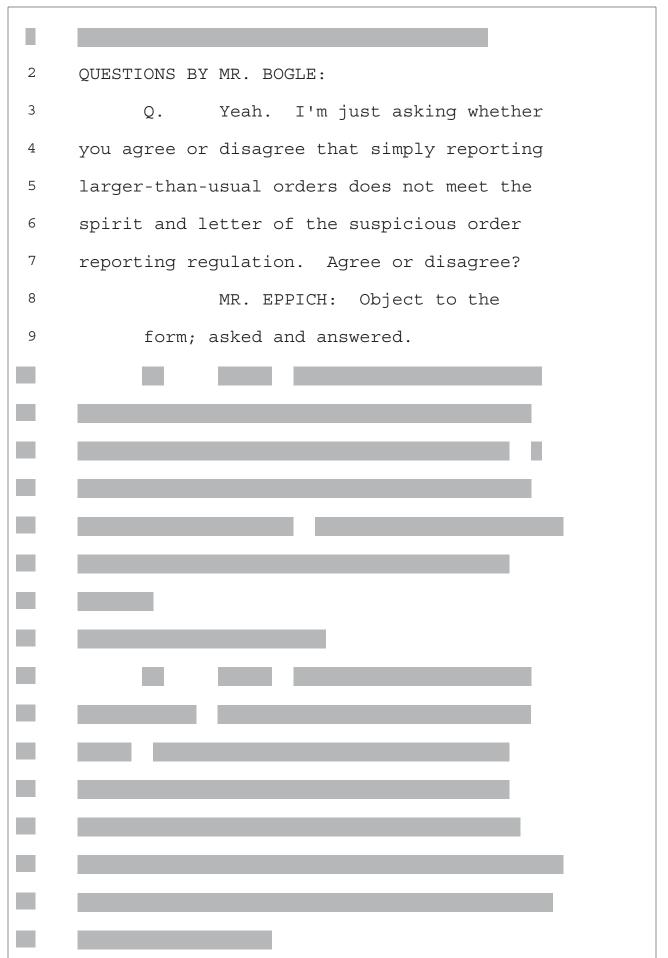


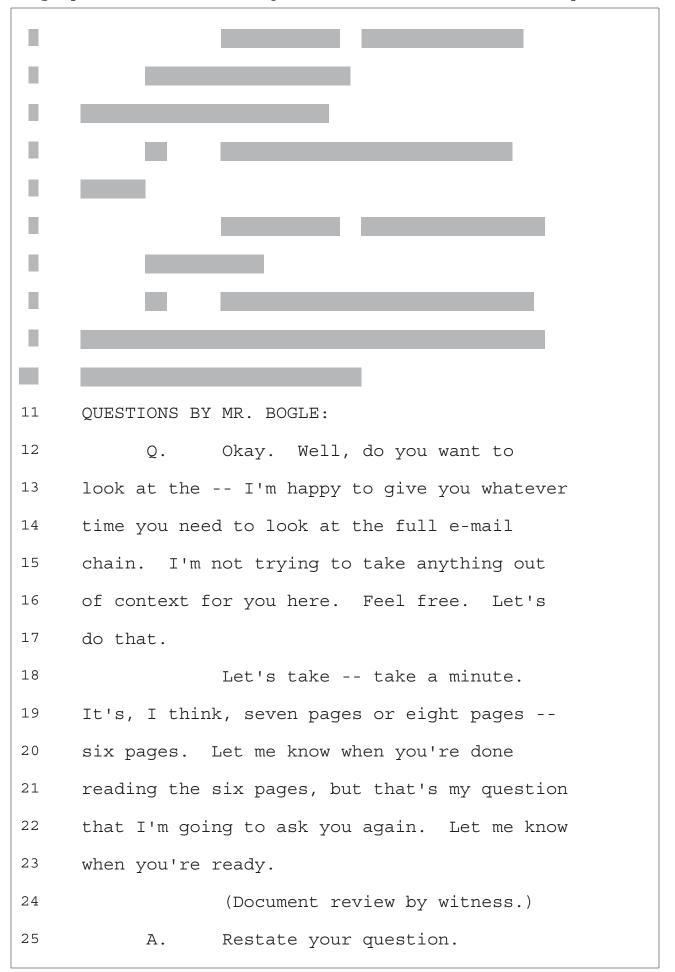
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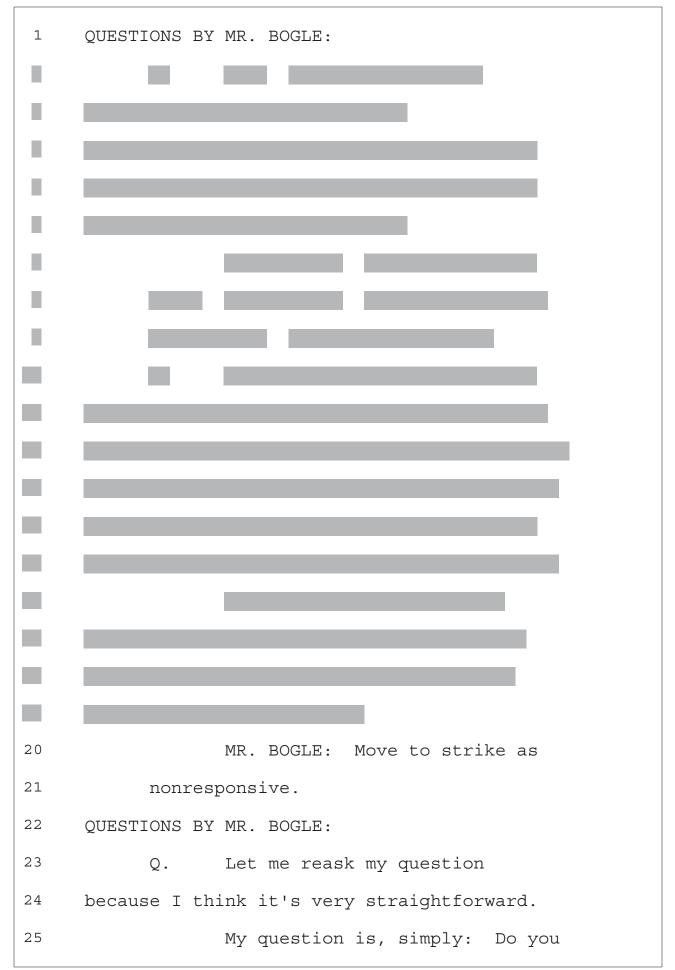


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- 1 agree or disagree that, standing alone,
- providing a report that simply lists
- 3 larger-than-usual orders does not comply with
- 4 the suspicious order reporting requirements
- of the Controlled Substances Act?
- 6 MR. EPPICH: Object to the
- 7 form.
- 8 QUESTIONS BY MR. BOGLE:
- 9 Q. I'm not asking about additional
- 10 stuff. I'm asking whether you think that
- alone is good enough to meet that regulation.
- 12 Yes or no?
- MR. EPPICH: Object to form;
- asked and answered, calls for a legal
- 15 conclusion.
- 16 OUESTIONS BY MR. BOGLE:
- 17 O. We'll talk about the rest of it
- later, I promise you.
- MR. EPPICH: He's answered this
- question three times now.
- MR. BOGLE: He hasn't come
- close. I mean, I'd love it if he had.
- MR. EPPICH: You're looking for
- a yes-or-no answer. He's given you
- the answer. It may not be the answer

```
1
            you want --
 2.
                   MR. BOGLE: He hasn't said yes
 3
            or no.
 4
                   MR. EPPICH: -- but he has
 5
            answered the question.
 6
      QUESTIONS BY MR. BOGLE:
 7
                   Listen, here's what we can do.
            Ο.
 8
      You can say yes or no and then provide
 9
      whatever response thereafter you want.
10
                   MR. EPPICH: I said you're
11
            looking for a yes-or-no answer but
12
            he's not providing that to you.
13
            That's why you're upset, Brandon.
14
                   MR. BOGLE: Right, because I
15
            just want him to answer my question.
16
            That does upset me, you're right.
17
            You're right. That's frustrating.
18
                   MR. EPPICH: I'll allow him to
19
            answer your question again.
20
      QUESTIONS BY MR. BOGLE:
21
                   Can you just answer -- I mean,
            Q.
22
      I think it's a very straightforward question.
```

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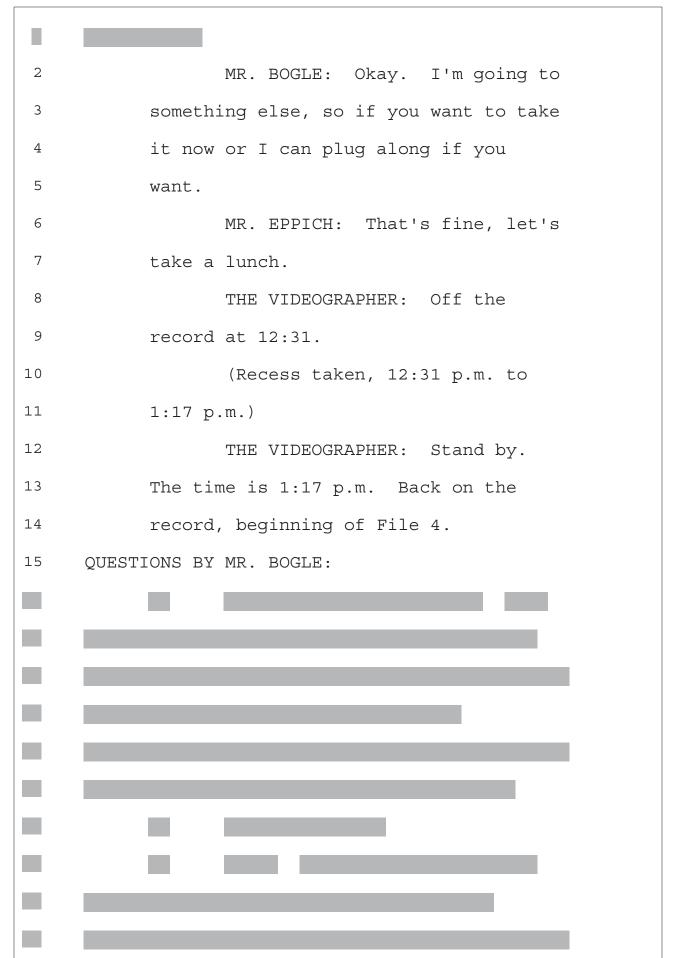


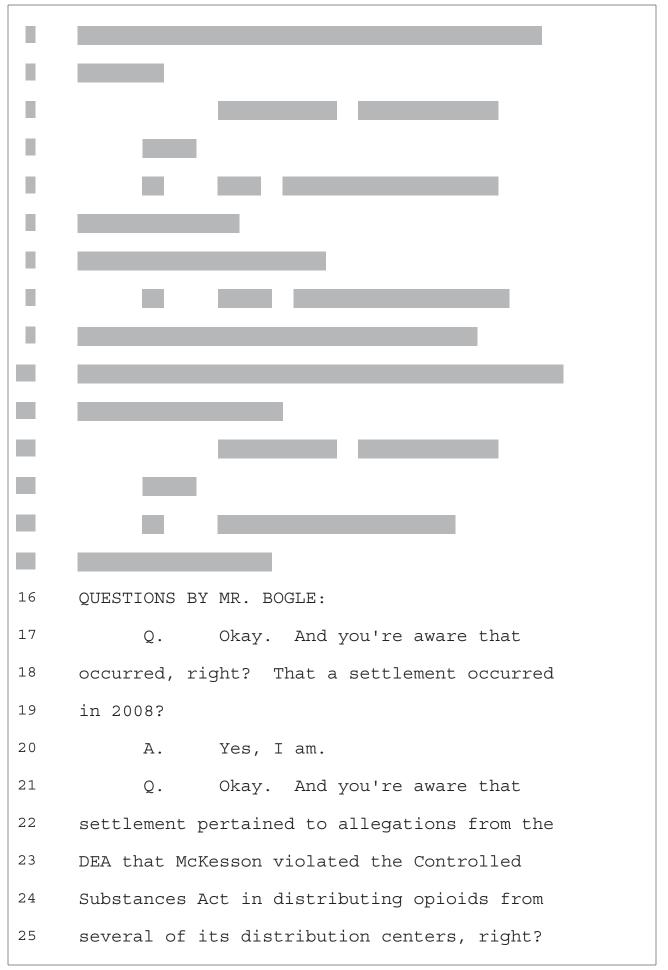
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```
1
            Α.
                   Correct.
 2.
            Ο.
                   Okay. Have you seen the
      settlement agreement itself?
 3
 4
                   I have seen it at one time.
 5
            Q.
                   Okay. All right. I'm going to
 6
      hand you what I'm marking as Exhibit 13,
 7
      which is also 1.889, and that's
 8
     MCKMDL00337001.
                    (McKesson-Hilliard Exhibit 13
 9
10
            was marked for identification.)
11
      QUESTIONS BY MR. BOGLE:
12
            Q.
                   Here you go, sir.
13
                   Okay. What I've just handed
14
      you, Mr. Hilliard, as Exhibit 13 is titled at
15
      the top Settlement and Release Agreement and
16
      Administrative Memorandum Agreement dated in
17
      the first paragraph May 2nd, 2008.
18
                   Do you see that?
19
            Α.
                   Yes, I see that.
20
                   Okay. And do you recognize
            Ο.
21
      this to be the settlement agreement we just
22
      referenced from 2008?
23
            Α.
                   Yes.
24
                   Okay. And if we'd go
            Q.
25
      specifically to -- let's see, my page numbers
```

```
are different here. There's an Appendix B
```

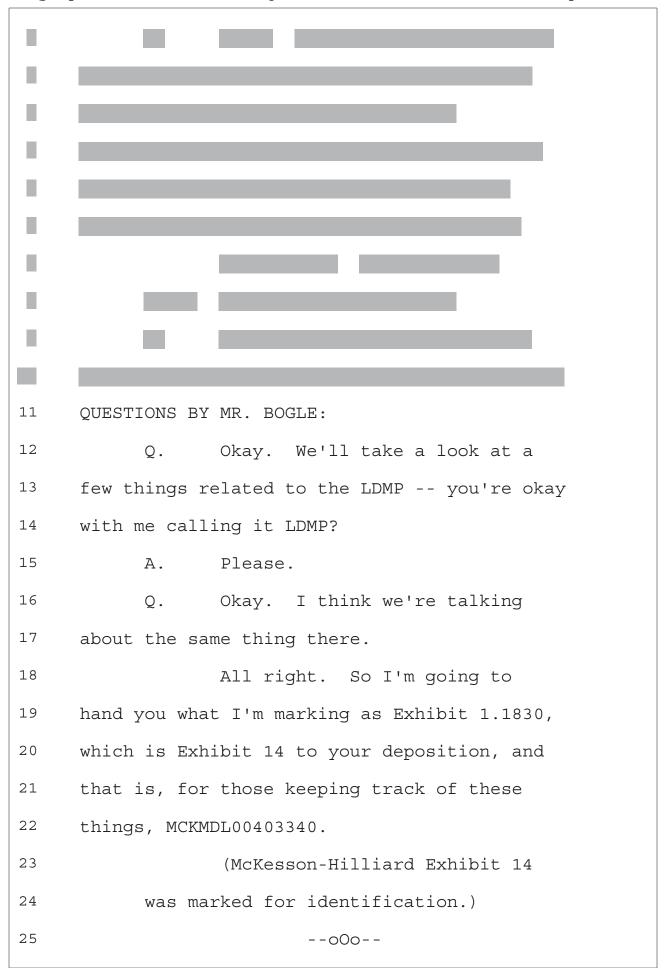
- about halfway through the document that
- 3 starts the actual settlement agreement. Do
- 4 you see where I'm at there? Sorry, my page
- 5 numbers don't match yours on this so I can't
- 6 give you a specific number. I'm sorry, I
- 7 would if I could. For reason -- but that's
- 8 what the page looks like right there.
- 9 MR. EPPICH: I think it's on
- 10 Bates 337012.
- 11 QUESTIONS BY MR. BOGLE:
- 12 Q. It says Appendix B at the top
- 13 left, Settlement Agreement at the top middle.
- 14 See where I'm at?
- 15 A. Found it.
- Q. All right. So this starts the
- 17 actual settlement agreement itself. So I
- want to go to the next page that talks about
- the covered conduct in the agreement, which
- is number 8 in the middle of the page.
- Do you see where I'm at?
- 22 A. Yes, I do.
- Q. Okay. And A there says:
- 24 Within the District of Maryland: From
- January 2005 through October 2006,

- 1 McKesson-Landover sold approximately
- 2 3 million dosage units of hydrocodone to
- NewCare Pharmacy in Baltimore, and failed to
- 4 report these sales as suspicious orders to
- 5 DEA when discovered, as required by and in
- 6 violation of -- and then it lists the C.F.R.
- 7 and the U.S.C.
- 8 And then it says: Further,
- 9 from August 2006 to February 2007,
- 10 McKesson-Landover sold large quantities of
- 11 phentermine-based products to Smeeta Pharmacy
- in Highland, Maryland, and failed to report
- these sales as suspicious orders to DEA when
- discovered, as required by and in violation
- of -- and again it lists the statutes.
- Do you see where I'm reading
- 17 there?
- 18 A. I see that.

- Q. Okay. Then if you see in
- section B, and I wasn't going to read this
- whole section but you can look at it here for

- 1 yourself, this talks about the conduct that
- we actually covered for the seven
- 3 pharmacies -- seven Florida pharmacies that
- 4 were handled by the Lakeland distribution
- 5 center, right?
- A. Yes. It's listed here.
- 7 O. And that's the same conduct we
- 8 talked about before, right? That's what they
- 9 discuss here.
- 10 A. Yes.
- Q. Okay. And then in letter C:
- 12 Within the Southern District of Texas, it
- says: From February to September 2007,
- 14 McKesson-Conroe sold approximately 2.6
- million dosage units of hydrocodone to
- 16 Mercury Drive Pharmacy and Maswoswe's
- 17 Alternative Pharmacy and failed to report
- these sales as suspicious orders to DEA when
- discovered, as required by and in violation
- of -- and again it lists the statutes.
- You see that there?
- A. I see that.
- Q. And on the next page, it
- continues with letters D, E and F. Letters D
- involve allegations of large quantities of

- 1 hydrocodone sent to three Colorado pharmacies
- out of the McKesson-Aurora distribution
- 3 center from September 2005 to November 2007,
- 4 right?
- 5 A. I see that.
- 6 Q. E involves McKesson-Salt Lake
- 7 and distribution of 824,000 units of
- 8 hydrocodone, oxycodone, fentanyl and
- 9 methadone to the Blackfeet Clinic in
- 10 Browning, Montana from January 2005 to
- 11 October 2007.
- Do you see that?
- 13 A. I see that.
- Q. Okay. And then finally, there
- is, from McKesson-West Sacramento,
- allegations of theft or significant loss of
- 17 controlled substances on 28 separate
- occasions that were not reported timely to
- 19 the DEA.
- Do you see that?
- 21 A. I see that.
- Q. Okay. And you know that for
- this covered conduct, there was a fine paid
- of \$13.25 million by McKesson, right?
- 25 A. Correct.





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1 what was in the audit at that time, but it's 2 possible. 3 Okay. And you recall that Q. during that 2007 audit process, there were 4 5 some significant shortcomings found with the program, right? 6 7 MR. EPPICH: Objection, form. 8 Α. I don't recall. 9 MR. EPPICH: Assumes facts not 10 in evidence. QUESTIONS BY MR. BOGLE: 11 12 Q. Okay. I'm going to hand you 13 what I'm marking as Exhibit 15, which is 14 1.1887, MCKMDL00591949. 15 (McKesson-Hilliard Exhibit 15 16 was marked for identification.) 17 QUESTIONS BY MR. BOGLE:

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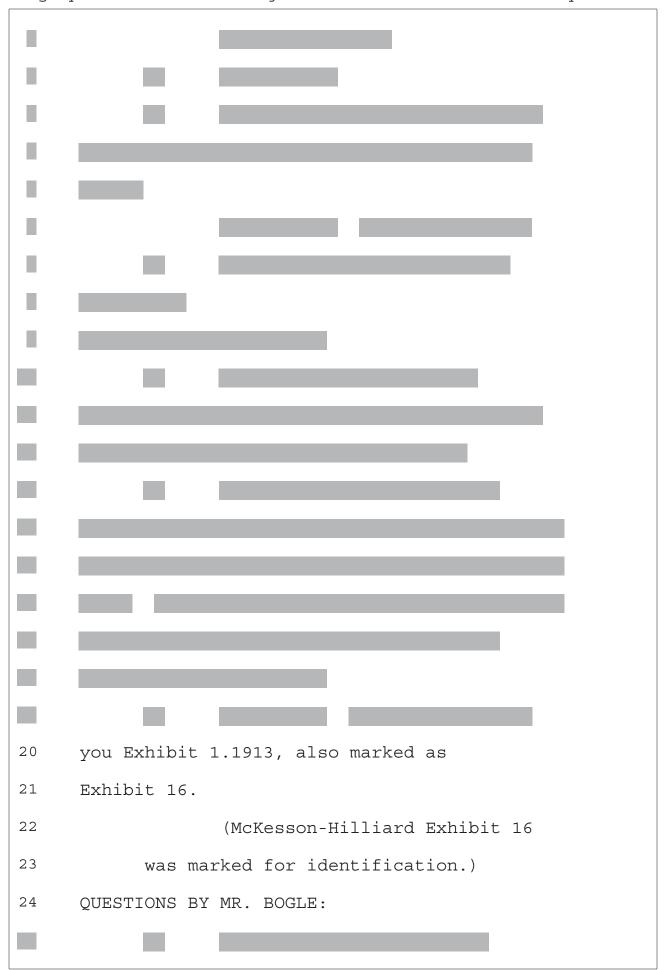


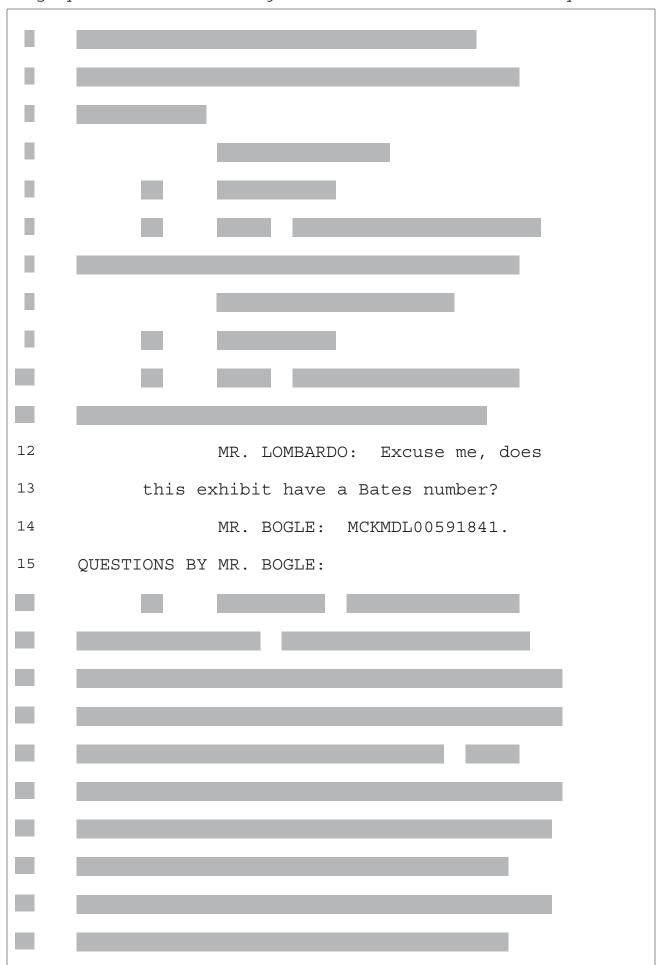
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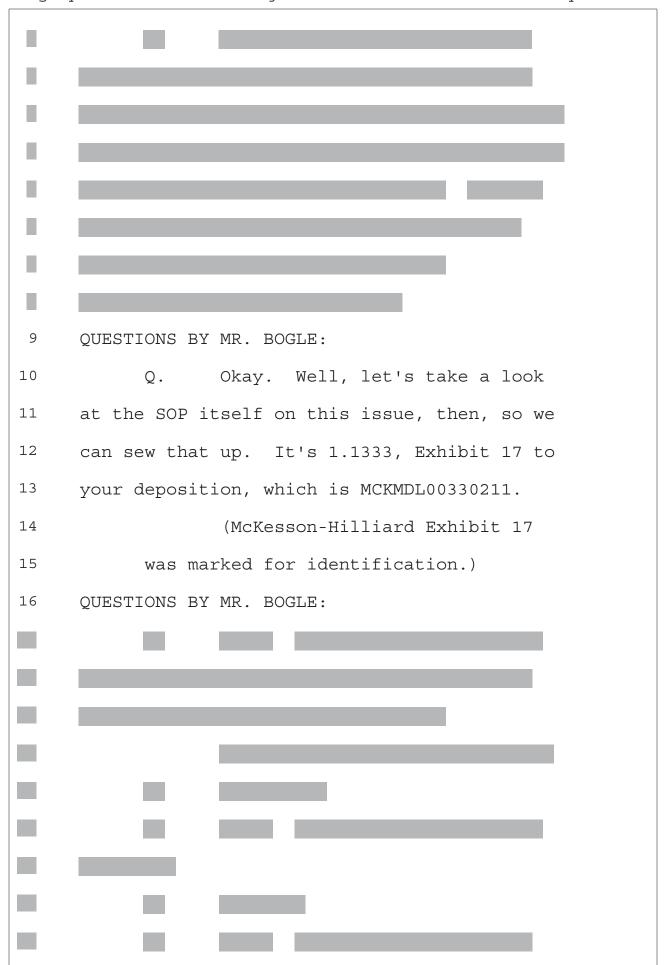


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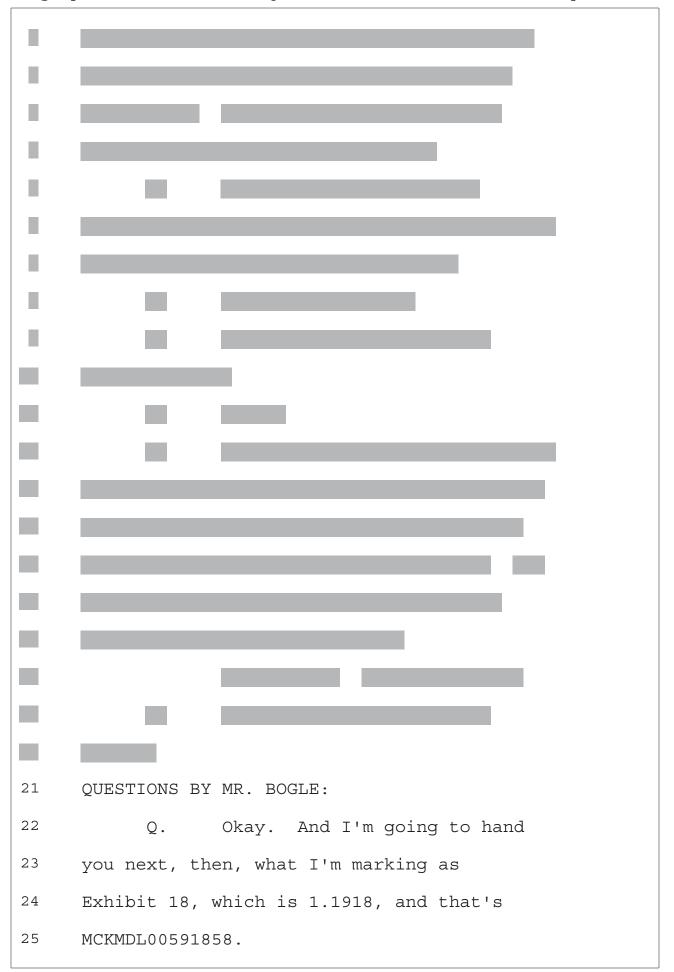
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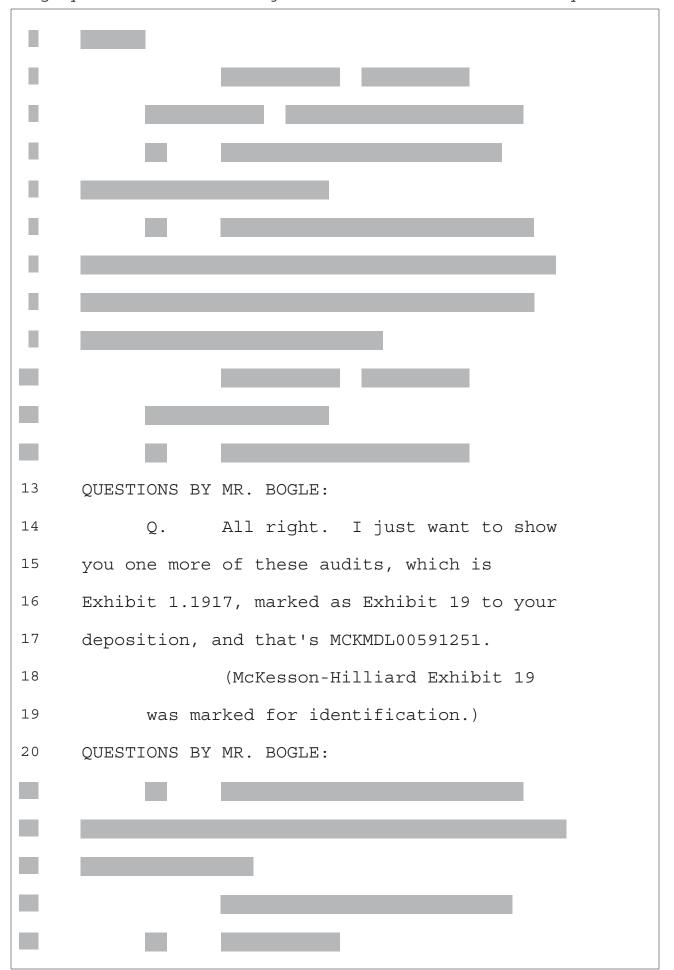






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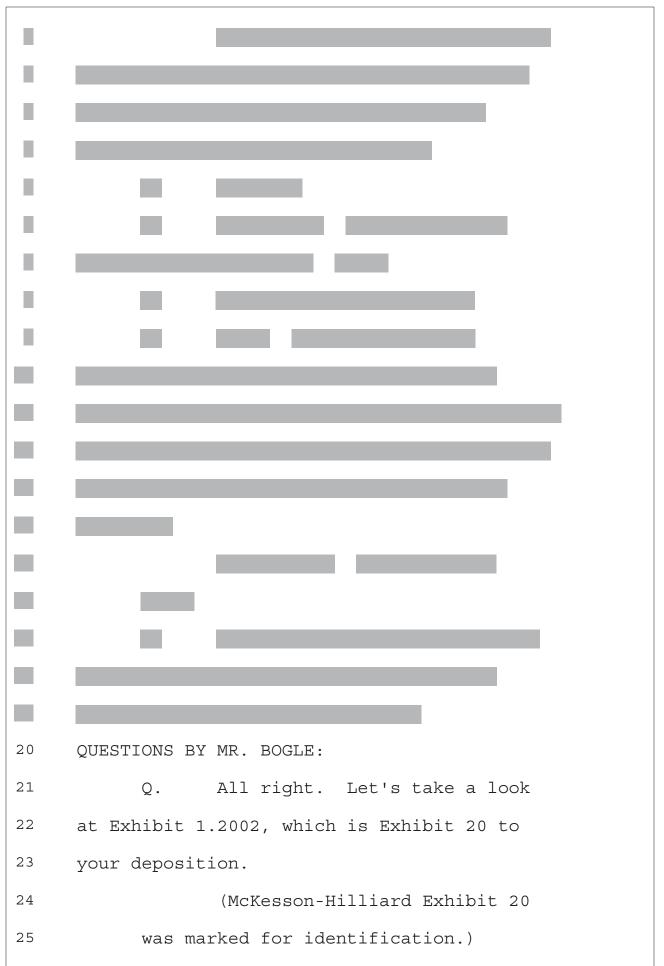


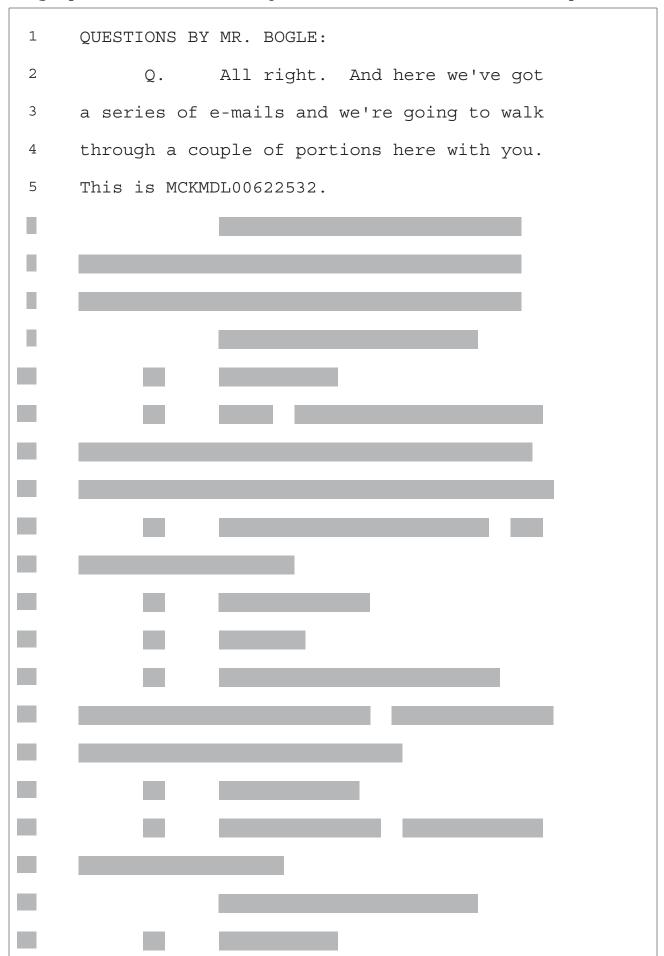
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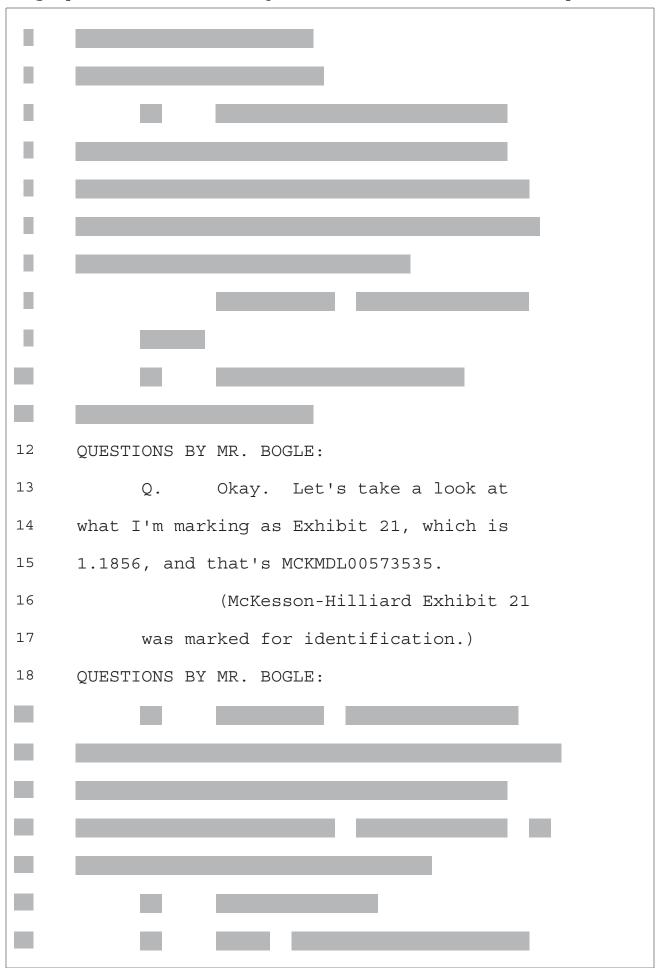


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6 Ο. Okay. But you're aware that 7 significant additions to McKesson's 8 regulatory team did not occur, in fact, until 9 the 2013-2014 time frame, right? MR. EPPICH: Object to the 10 11 form. 12 Α. There were -- we doubled in 13 size when the regional DRAs came aboard, so 14 that was a major change from that aspect. 15 There were certainly much larger numbers that 16 came onboard as the department developed. 17 QUESTIONS BY MR. BOGLE: 18 Q. Right. But we just looked at 19 this discussion from 2009. So it wasn't --20 after 2009, it wasn't until late 2013, early 21 2014, that significant additions were made as 22 far as staffing in the regulatory department 23 of McKesson, right? 24 MR. EPPICH: Objection to form; 25 asked and answered.

- 1 A. I'm not sure exactly on the
- dates. We doubled in size in the 2009 time
- frame, and at this point and juncture of 2013
- 4 and such, I'm no longer working actively in
- 5 the CSMP program. But there were
- 6 additional -- significant additional head
- 7 count that was produced to the department. I
- 9 just don't know exact dates when that
- 9 occurred.
- 10 QUESTIONS BY MR. BOGLE:
- 11 Q. When you say you doubled in
- size in around 2009, that's doubling from
- three people to six people, right?
- A. Four more were added, so it's
- 15 from three to seven.
- 16 Q. Three to seven people, okay.
- 17 A. Yeah.
- Q. And that's to cover, again,
- what is approximately 30 distribution
- 20 centers, right?
- 21 A. Correct.
- Q. Okay. And you're aware of --
- well, strike that.

3 MR. EPPICH: Object to the 4 Calls for speculation. I didn't have any control on 5 Α. the head count in the department. That would 6 7 be our -- Don Walker's position to decide 8 what type of head counts we needed to cover 9 the area. Again, I wasn't assigned to a 10 region for those processes. 11 QUESTIONS BY MR. BOGLE: 12 Q. Okay. So additional staffing 13 wouldn't have been your call. Is that what 14 you're saying? 15 Α. That's correct. 16 Ο. We touched on this a little 17 bit, but I want to talk more specifically 18 about it. In 2008, following the settlement we saw with the DEA, the CSMP was 19 20 implemented, right? 21 Α. Correct.

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OUESTIONS BY MR. BOGLE: 7 Q. Okay. But we looked at the 8 2008 settlement agreement where there were -there was a \$13.25 million fine paid for 10 conduct related to various distribution 11 centers for distribution of opioids. 12 In your view, after that, was 13 there not some reason to change the course of 14 conduct at McKesson as it pertained to controlled substance distribution? 15 16 MR. EPPICH: Objection to the 17 form; calls for speculation. 18 Foundation. 19 McKesson, we worked to develop Α. 20 new and enhanced programs that demonstrates 21 activity that occurred after that agreement. 22 QUESTIONS BY MR. BOGLE: 23 Okay. But with the conduct Ο. that we looked at in that settlement 24 25 agreement, do you agree or not agree that

```
changes needed to be made in the controlled
```

- 2 substance monitoring practices at McKesson?
- MR. EPPICH: Object to form.
- 4 A. There were changes made.
- 5 That's how we came to develop the LDMP and
- then developed the more robust CSMP program.
- 7 OUESTIONS BY MR. BOGLE:
- 8 Q. And if those changes are going
- 9 to be meaningful, then it shouldn't be
- business as usual for customers, should it?
- It should be more difficult for customers to
- get controlled substances, right?
- MR. EPPICH: Object to the
- 14 form. Vaque.
- 15 A. You can work collaboratively
- with your customers and not make it painful
- for them, so, you know, it's -- business
- doesn't have to be painful. Changing
- 19 processes, enhancing programs, working
- 20 collaborative with customers, is what was
- needed and what we developed and it could
- 22 enhance the program.
- QUESTIONS BY MR. BOGLE:
- Okay. So then when the CSMP
- was developed, was it your understanding that

```
the ultimate goal was to make sure that
 1
 2.
     customers stayed happy and kept getting the
 3
     product that they wanted to get?
 4
                   MR. EPPICH: Object to the
 5
            form; vaque, misstates prior
 6
            testimony.
                   Obviously that wasn't the
 7
            Α.
 8
     purpose.
 9
     QUESTIONS BY MR. BOGLE:
10
                   Okay. So is it an accurate
            Ο.
     statement that the goal was to make sure that
11
12
     there was no disruption in the business
13
     activities of any McKesson customer?
14
                   MR. EPPICH: Objection to the
15
            form; misstates prior testimony.
16
            Calls for speculation.
17
                   As stated before, there were
            Α.
18
     customers that we discontinued doing business
19
     with. So in some cases, customers would be
20
     unhappy. But that doesn't mean that all
21
     customers are going to get discontinued
22
     business. They're all going to get reviewed,
23
     and again, it doesn't mean it has to disrupt
24
     the business between the companies.
25
                            --000--
```

```
QUESTIONS BY MR. BOGLE:
 1
 2.
                   But if it becomes more
            Q.
 3
     difficult for customers to get opioid
     products, isn't that justified if you're
 4
 5
     facing an epidemic?
                   MR. EPPICH: Objection to the
 6
 7
                   Vaque. Calls for speculation.
 8
            Α.
                   I don't know what that would
 9
     affect to the customer. Just because you're
10
     doing a review and you're knowing your
11
     customer, you're making sure they obtain the
12
     amount of product that they need for
13
     legitimate purposes. That's not painful for
14
     a customer.
15
     OUESTIONS BY MR. BOGLE:
16
                   Okay. So it's your testimony,
            Ο.
17
     then, that -- I'm trying to make sure I
18
     understand what you're saying here. So the
19
     business-as-usual attitude did exist in
20
     creation of the CSMP, right?
21
                   MR. EPPICH: Objection.
22
     OUESTIONS BY MR. BOGLE:
23
                   Am I understanding you
            Ο.
24
     correctly?
25
                   MR. EPPICH: Objection, form.
```

1 Misstates prior testimony. No. We put together processes 2. Α. 3 and our functions changed. We had different 4 procedures that we had to comply with and 5 that also meant working with customers. QUESTIONS BY MR. BOGLE: 6 7 Okay. I'm handing you what I'm Ο. 8 marking as Exhibit 22 to your deposition, which is Exhibit 1.1962, and that's 9 10 MCKMDL00543610. 11 (McKesson-Hilliard Exhibit 22 12 was marked for identification.) 13 QUESTIONS BY MR. BOGLE:

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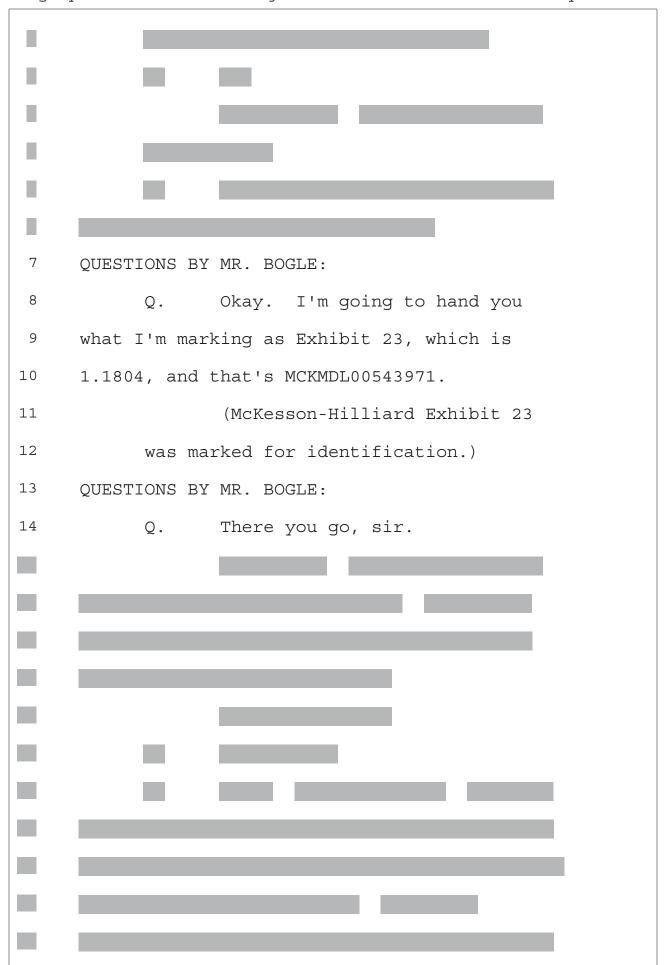


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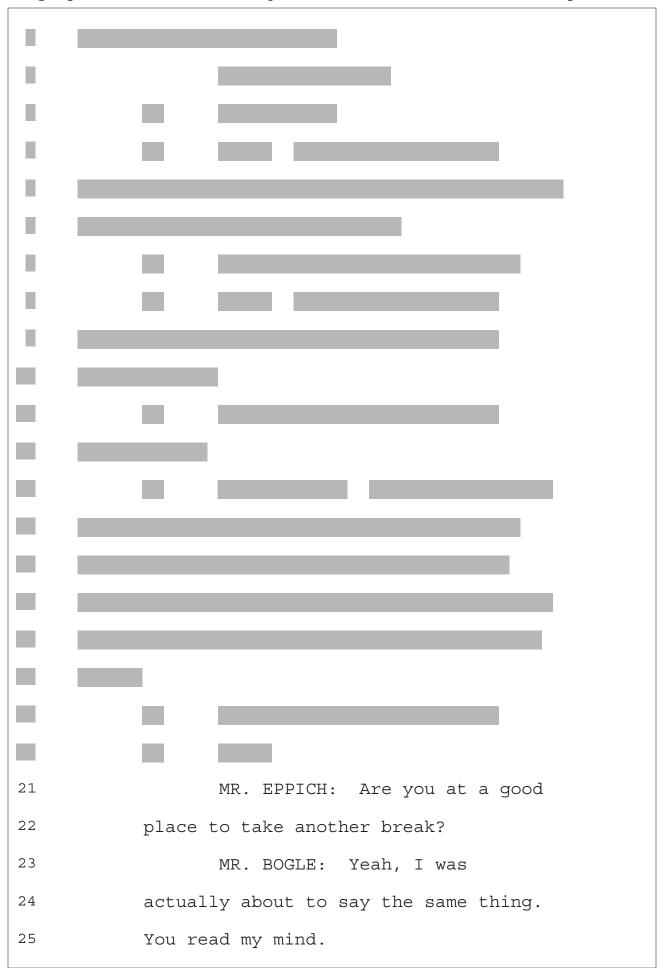
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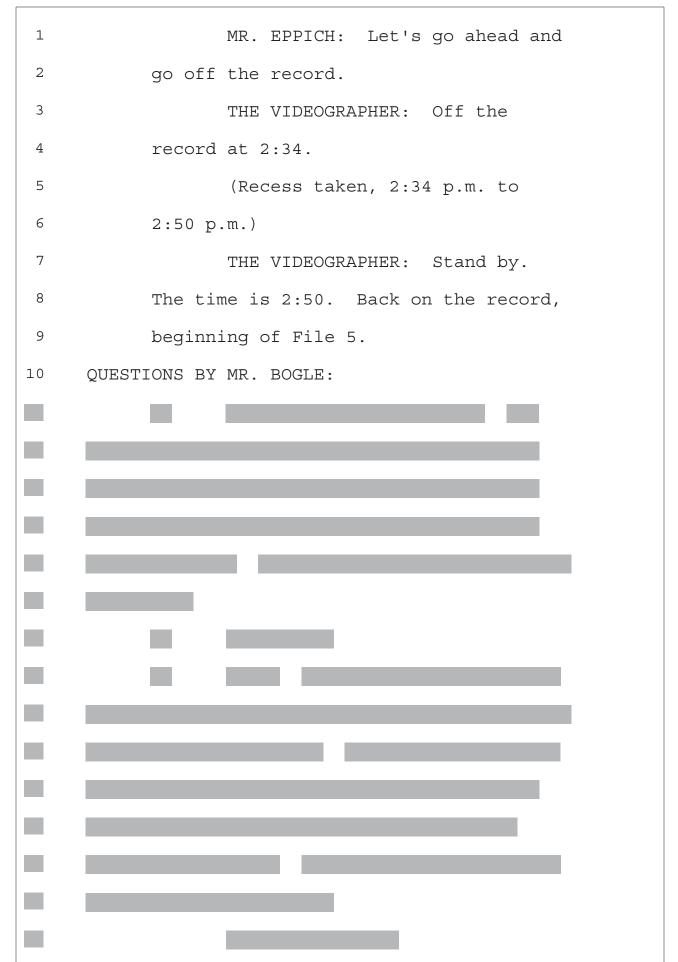




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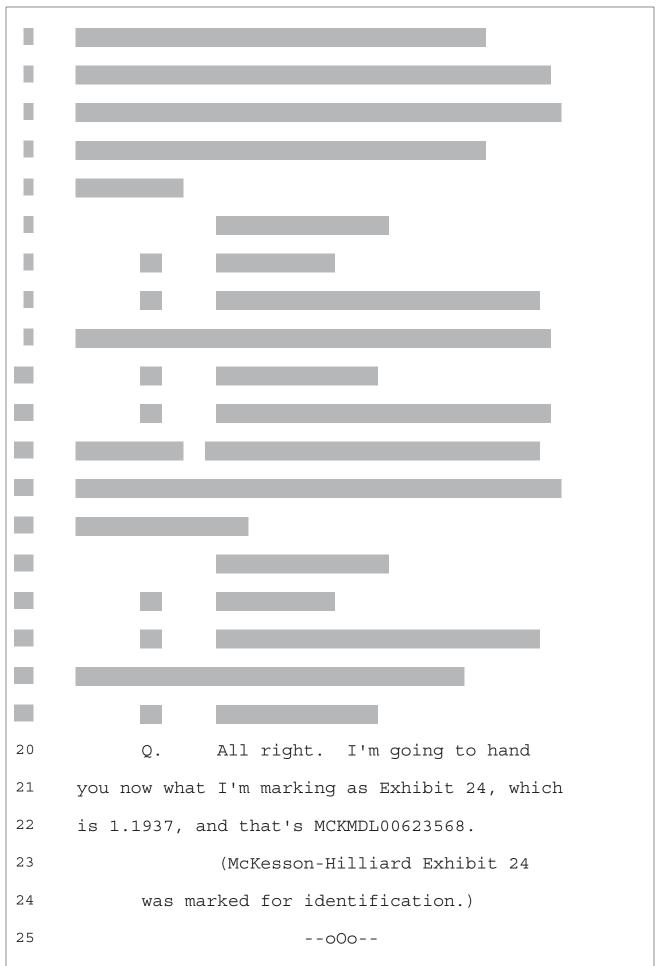
Q. Okay. Then if we go back to Exhibit 3, which is the Rannazzisi letter from September 27, 2006, you recall discussing this letter with me earlier today, right?  A. Yes, I do. Q. Okay. If we go to the second page of the letter, there is a paragraph about three-quarters of the way down that says, "Thus, in addition to."  Do you see that? A. Yes, I do. Q. It says: Thus, in addition to reporting all suspicious orders, a
Exhibit 3, which is the Rannazzisi letter  from September 27, 2006, you recall  discussing this letter with me earlier today, right?  A. Yes, I do. Q. Okay. If we go to the second  page of the letter, there is a paragraph about three-quarters of the way down that says, "Thus, in addition to."  Do you see that?  A. Yes, I do. Q. It says: Thus, in addition to
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discussing this letter with me earlier today, right?  A. Yes, I do. Q. Okay. If we go to the second page of the letter, there is a paragraph about three-quarters of the way down that says, "Thus, in addition to."  Do you see that?  A. Yes, I do. Q. It says: Thus, in addition to
discussing this letter with me earlier today, right?  A. Yes, I do. Q. Okay. If we go to the second page of the letter, there is a paragraph about three-quarters of the way down that says, "Thus, in addition to."  Do you see that?  A. Yes, I do. Q. It says: Thus, in addition to
right?  A. Yes, I do.  Q. Okay. If we go to the second  page of the letter, there is a paragraph  about three-quarters of the way down that  says, "Thus, in addition to."  Do you see that?  A. Yes, I do.  Q. It says: Thus, in addition to
A. Yes, I do.  Q. Okay. If we go to the second  page of the letter, there is a paragraph  about three-quarters of the way down that  says, "Thus, in addition to."  Do you see that?  A. Yes, I do.  Q. It says: Thus, in addition to
Q. Okay. If we go to the second page of the letter, there is a paragraph about three-quarters of the way down that says, "Thus, in addition to."  Do you see that?  A. Yes, I do.  Q. It says: Thus, in addition to
page of the letter, there is a paragraph about three-quarters of the way down that says, "Thus, in addition to."  Do you see that?  A. Yes, I do.  Q. It says: Thus, in addition to
about three-quarters of the way down that says, "Thus, in addition to."  Do you see that?  A. Yes, I do.  Q. It says: Thus, in addition to
says, "Thus, in addition to."  Do you see that?  A. Yes, I do.  Q. It says: Thus, in addition to
Do you see that?  A. Yes, I do.  Q. It says: Thus, in addition to
A. Yes, I do. Q. It says: Thus, in addition to
Q. It says: Thus, in addition to
reporting all suspicious orders, a
5
distributor has a statutory responsibility to
exercise due diligence to avoid filling

- 1 suspicious orders that might be diverted into
- other than legitimate medical, scientific,
- 3 and industrial channels.
- 4 Do you see that?
- 5 A. I see that.
- 6 Q. Okay. And the next paragraph
- 7 down that we read before talks about the
- 8 distributor needing to exercise due care in
- 9 confirming the legitimacy of orders prior to
- 10 filling.
- Do you see that reference in
- the last sentence?
- 13 A. Yes, I see that now.
- Q. Okay. So, again, this letter
- from September 27, 2006, you would agree with
- me makes clear that the expectation is that
- 17 McKesson will be reporting suspicious orders
- and not filling them if it deems them
- 19 suspicious, right?
- MR. EPPICH: Object to the
- form. The document speaks for itself.
- 22 A. That's what's stated on here.
- QUESTIONS BY MR. BOGLE:
- Q. Okay. And so the idea, then,
- is not to report suspicious sales, because

you're not supposed to make the sale if the 1 order is suspicious, right? 2 3 MR. EPPICH: Object to the Calls for speculation. 4 It states "suspicious orders." 5 Α. QUESTIONS BY MR. BOGLE: 6 7 And not "suspicious sales," Q. right? 8 MR. EPPICH: Object to the 9 form; calls for speculation. 10 I don't recall seeing "sales" 11 Α. 12 listed here. 13 QUESTIONS BY MR. BOGLE:

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1	QUESTIONS BY MR. BOGLE:
2	Q. I put the sticker at the top so
3	we don't cover up the writing. Okay. This
4	is a series of e-mails, and again we're going
5	to kind of work our way earliest in time to
6	newest closest in time.

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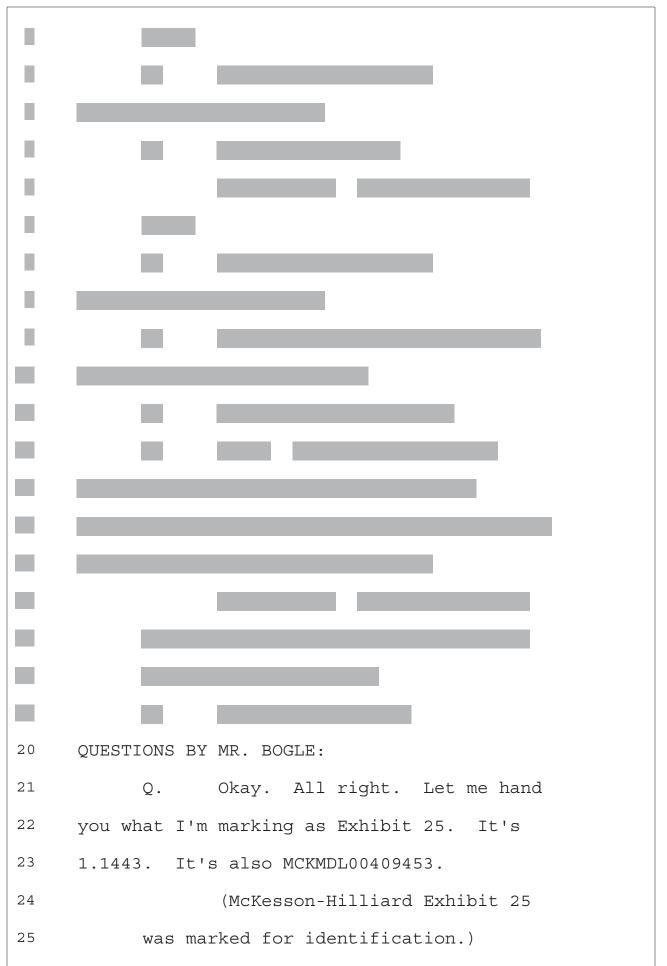


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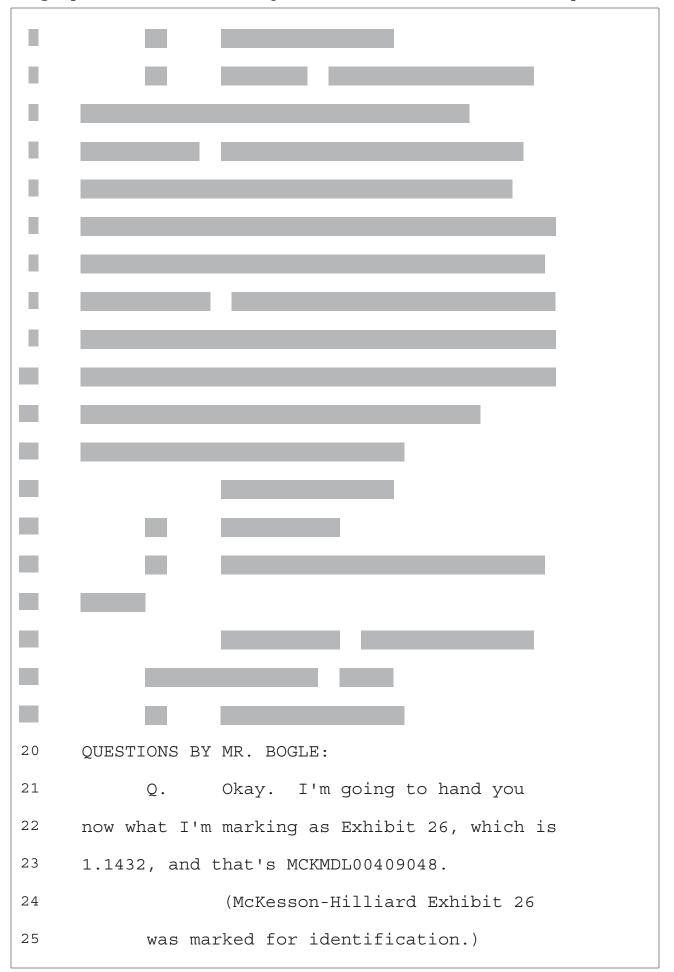


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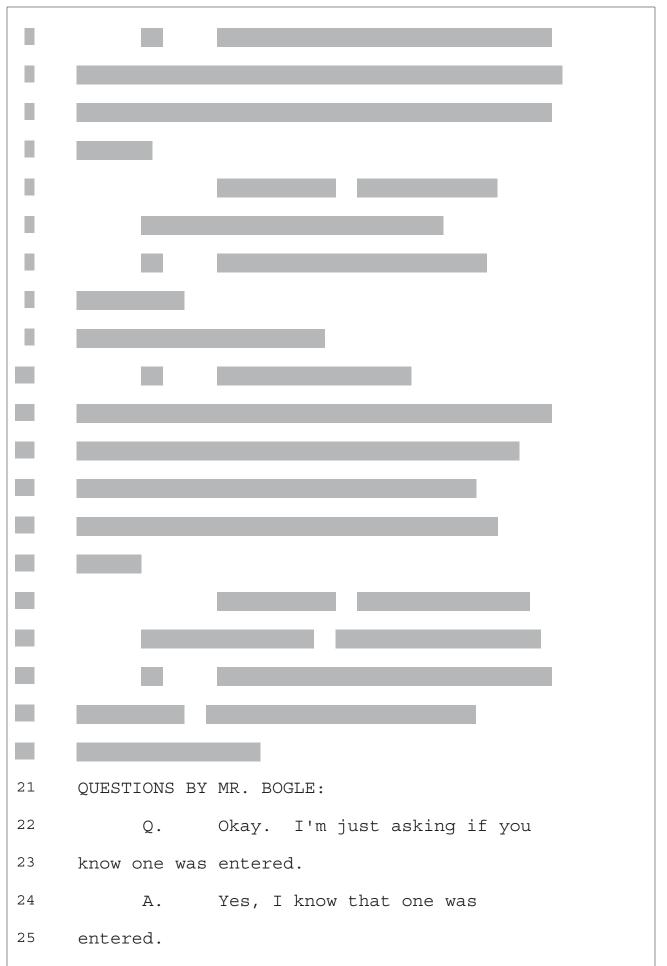
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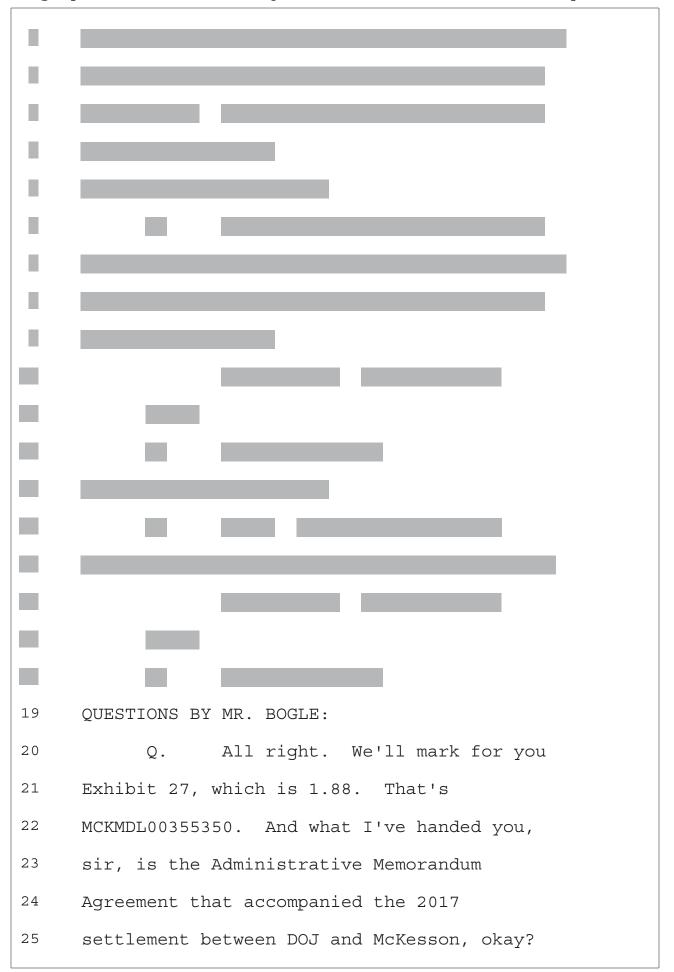


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1 Ο. Okay. Where there was a 2. \$150 million fine assessed? 3 MR. EPPICH: Objection; calls 4 for speculation. That was my understanding. 5 Α. QUESTIONS BY MR. BOGLE: 6 7 Okay. And do you also Ο. 8 understand that as a part of that settlement agreement, McKesson accepted responsibility 9 10 for failing to report suspicious orders? 11 MR. EPPICH: Objection to the form; calls for speculation. 12 13 No, I'm not aware of that. I Α. don't think I was with McKesson when that was 14 finalized. 15 16 QUESTIONS BY MR. BOGLE:



```
1
                   Yes, I have it.
            Α.
 2.
            Ο.
                   Okay. And I want to just point
 3
      you to one specific passage here, and it's
              Number 2 says "Acceptance of
 4
 5
      Responsibility."
                   Are you with me there?
 6
 7
            Α.
                   Yes, I am.
 8
            Ο.
                   It says: On or about
 9
      September 27, 2006, February 7, 2007, and
10
      December 27, 2007, DEA's Deputy Assistant
11
      Administrator, Office of Diversion Control,
12
      sent letters to every entity in the United
13
      States that was registered with DEA to
14
      manufacture or distribute controlled
15
      substances, including McKesson.
16
                   Now, the September 27, 2006
17
      letter, that's one that we've actually
18
      reviewed here today, right?
19
                   The Rannazzisi?
            Α.
20
                   Yes, sir.
            Q.
21
                   MR. EPPICH: Objection to the
22
            form; foundation.
23
      QUESTIONS BY MR. BOGLE:
                   You recall reading that letter
24
            Ο.
25
      with me?
```

```
1
                   The Rannazzisi letter, yes.
            Α.
 2.
            Q.
                   Okay. And again, that was a
 3
      letter that you received, right?
 4
                   MR. EPPICH: Objection to the
 5
            form; foundation.
 6
            Α.
                   I did receive it at some point,
 7
      yes.
 8
      QUESTIONS BY MR. BOGLE:
                                               The
 9
                   Okay.
                          It continues here:
            Ο.
10
      DEA Letters contained, among other things,
11
      quidance for the identification and reporting
12
      of suspicious orders to DEA as required by
13
      21 C.F.R. Section 1301.74(b). McKesson
14
      acknowledges that, at various times during
15
      the time period from January 1, 2009 up
16
      through and including the Effective Date of
17
      this Agreement (the "Covered Time Period"),
18
      it did not identify or report to DEA certain
19
      orders placed by certain pharmacies which
20
      should have been detected by McKesson as
21
      suspicious based on the quidance contained in
22
      the DEA Letters about the requirements set
23
      forth in 21 C.F.R. 1301.74(b) and
      21 U.S.C. Section 842(a)(5).
24
25
                   Do you see that?
```

```
1
            Α.
                   I see that.
 2.
                   MR. EPPICH: Objection;
 3
            foundation.
      QUESTIONS BY MR. BOGLE:
 4
16
      QUESTIONS BY MR. BOGLE:
                   Okay. While you were with
17
            Ο.
18
     McKesson, did you have a sense -- I mean, you
19
      were there for nearly 20 years. Did you have
20
      a sense and feeling that McKesson would
21
      accept responsibility for things that it
22
      didn't do?
23
                   MR. EPPICH: Object to the
24
            form; calls for speculation.
25
                   I wasn't part of the agreement
            Α.
```

```
and I'm not familiar with this document, so I
```

- don't know.
- 3 QUESTIONS BY MR. BOGLE:
- 4 Q. I'm not specifically asking you
- 5 about the document right now. I'm saying,
- during your 20 years spent at McKesson, do
- you have a belief that McKesson would accept
- 8 responsibility for things that it didn't do?
- 9 MR. EPPICH: Object to the
- form; calls for speculation.
- 11 A. I don't know.
- 12 QUESTIONS BY MR. BOGLE:
- Q. Okay. And can you think of any
- other instance in the 20 years you were at
- McKesson where the company paid anything
- approaching a \$150 million fine for something
- it didn't do?
- MR. EPPICH: Object to the
- form; calls for speculation.
- A. I don't know.
- 21 QUESTIONS BY MR. BOGLE:
- Q. Can you think of any off the
- top of your head?
- MR. EPPICH: Same objections.
- A. I'm not aware of any.

```
1
                   MR. BOGLE: Okay. No further
 2.
            questions for you, sir.
 3
                   THE WITNESS: Thank you.
                   MR. EPPICH: Let's go ahead and
 4
 5
            take a break and go off the record.
                   THE VIDEOGRAPHER: Off the
 6
 7
            record at 3:25.
 8
                    (Recess taken, 3:25 p.m. to
 9
            3:46 p.m.)
10
                   THE VIDEOGRAPHER: All right,
11
            stand by. The time is 3:46. Back on
12
            the record.
13
                         EXAMINATION
14
      QUESTIONS BY MR. EPPICH:
                   Good afternoon, Mr. Hilliard.
15
            0.
16
     My name is Chris Eppich, and I'm just going
17
      to ask a few questions of you this afternoon.
18
            Α.
                   Okay.
19
                   I know it's been a long day so
            Q.
20
      I'll keep it pretty short.
21
                   You testified earlier today
22
      that you joined McKesson in 1997. Is that
23
      right?
24
            Α.
                   That's correct.
25
                   And can you briefly describe
            Q.
```

- for us your duties as director of regulatory
  affairs from 1997 to, say, 2006?

  A. Well, from '97 to
  - 4 approximately '98, the title was manager of
  - 5 regulatory affairs. Still carried the same
  - 6 job functions when I went to director of
  - 7 regulatory affairs.
  - I had DEA oversight in regards
  - 9 to compliance with DEA's Section 55, which
- was the operating procedures for all things
- 11 DEA, and so that also included the suspicious
- order monitoring program within it as well,
- which was based on the previous working group
- 14 from the Suspicious Order Task Force that
- McKesson was involved with prior to my
- 16 arrival. So that product, that result of
- that meeting was developed into the
- 18 Section 55.
- 19 So I worked with our DC
- 20 managers to ensure that they were in
- compliance with the Section 55 requirements,
- including the suspicious order aspect of it.
- I audited them as well and worked with them
- with any issues that they may bring to my
- attention, and I also worked on the ARCOS

part of it and training the associates there 1 2. at the facilities in theft and loss reports and sometimes investigations. 3 4 Also, I mentioned the audits, I 5 conducted the DEA audits as well as other regulatory audits for the operations. 6 7 addition to the DEA responsibilities, I also 8 had responsibilities under the waste 9 management or environmental aspect of it for 10 EPA, also for hazardous materials for DOT and 11 FAA transportation aspects of it; for 12 registrations, including the DEA 13 registrations for our facilities, and our 14 state licensures and state-controlled substance licensures for our facilities. 15 16 I also worked with FDA 17 compliance for our facilities as well, and 18 that carried up to about 2006.

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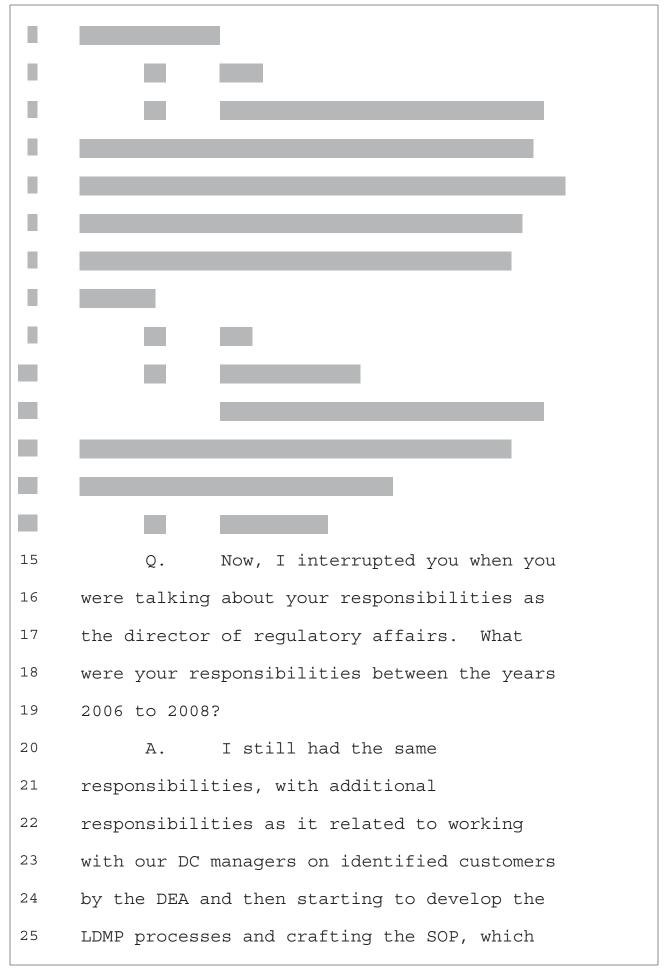


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- then developed into the CSMP.
- 2 Q. So you worked on the
- development of the LDMP and then the
- 4 development of the CSMP. Is that right?
- 5 A. Correct.
- 6 Q. Now, that -- and do you recall
- 7 when the CSMP was released?
- 8 A. I believe it was 2008.
- 9 Q. Okay. And after 2008, after
- the release of the CSMP, what were your
- 11 responsibilities as a director of regulatory
- 12 affairs at McKesson?
- 13 A. I still helped to work with the
- 14 SOPs, but the regional directors came onboard
- and so they managed the correlation with the
- DCs, their respective DCs in those regions as
- it relates to the CSMP processes and
- 18 procedures, and I still continued with --
- again, with the normal DEA audits and then
- 20 also continued with my other responsibilities
- under FDA and HAZMAT and EPA.
- Q. Now, do you recall -- do you
- recall who your supervisors were? Let's go
- 24 ahead and take it back in time. Let's take
- it from about 1997 to the 2006 time period.

- 1 Do you recall who your supervisors were?
- A. So when I joined in '97, Dan
- White was my boss and he was a VP of
- 4 regulatory. And then after Dan White, I
- 5 believe it was Don Walker. Again, I don't
- for remember the exact dates. I believe it was
- 7 Don Walker, and then to Ron Bone. I know I
- was reporting to Ron Bone in the 2005-2006
- 9 time frame.
- 10 Ron left and then I was
- 11 reporting to Bruce and -- Bruce Russell and
- Don Walker; and then once Bruce retired, it
- was directly to Don Walker. And then finally
- 14 I reported to Krista Peck.
- 15 Q. You testified earlier today
- that you were familiar with the Controlled
- 17 Substances Act.
- Do you remember that testimony?
- 19 A. Yes, I do.
- Q. Now, during -- and you
- testified that you were in the regulatory
- 22 affairs department at McKesson from 1997 all
- the way to 2016, correct?
- A. That's correct.
- Q. Now, during your time at

McKesson, are you aware of any changes to the 1 2. Controlled Substances Act? 3 No, I'm not. Α. The CSA didn't change at all 4 Ο. 5 during your tenure at McKesson? 6 MR. BOGLE: Object to form. 7 That's correct. Α. QUESTIONS BY MR. EPPICH: 8 Now, have directives from the 9 Q. 10 DEA changed over that period? Yes, they have. 11 Α. Can you provide us any examples 12 Q. of how DEA directives have changed while you 13 14 were at McKesson? MR. BOGLE: Object to form. 15

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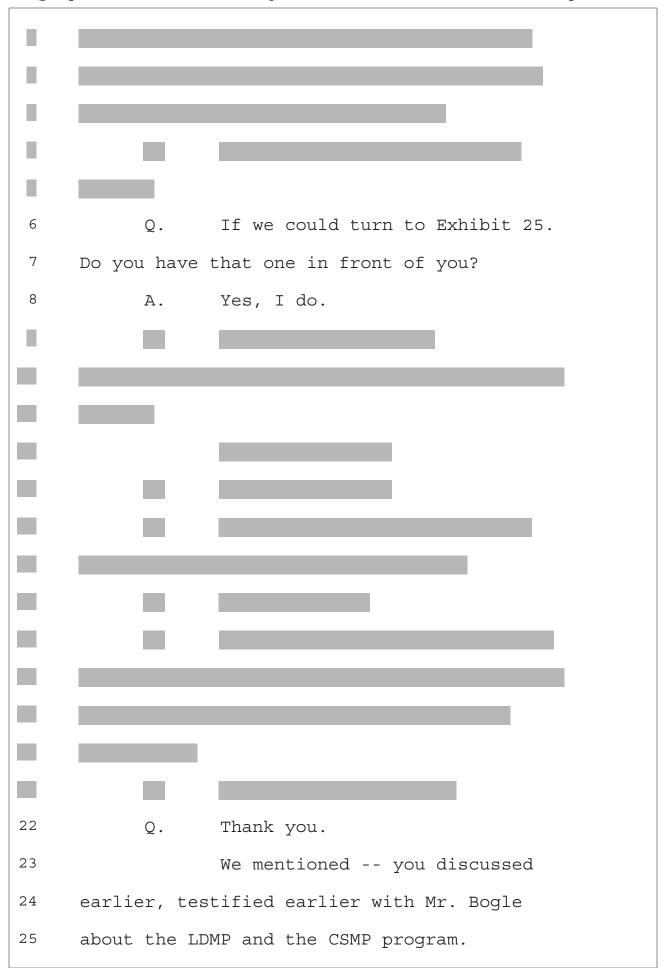
7 QUESTIONS BY MR. EPPICH: 8 0. Mr. Hilliard, are you familiar with the ARCOS reporting system? 10 Α. Yes, I am. 11 What is the ARCOS reporting Ο. 12 system? 13 Α. It's a reporting system that's 14 put in place way past when I started in the 15 industry, that the DEA runs. It's run out of 16 headquarters and it's a reporting system for 17 manufacturers and distributors. 18 So manufacturers and 19 distributors have to submit essentially all 20 the raw data for their transactions for 21 Schedule IIs and Schedule III narcotics, and 22 this included all the sales receipts, 23 returns, theft/loss, no activity, if you had no activity for a registrant during the 24 25 month.

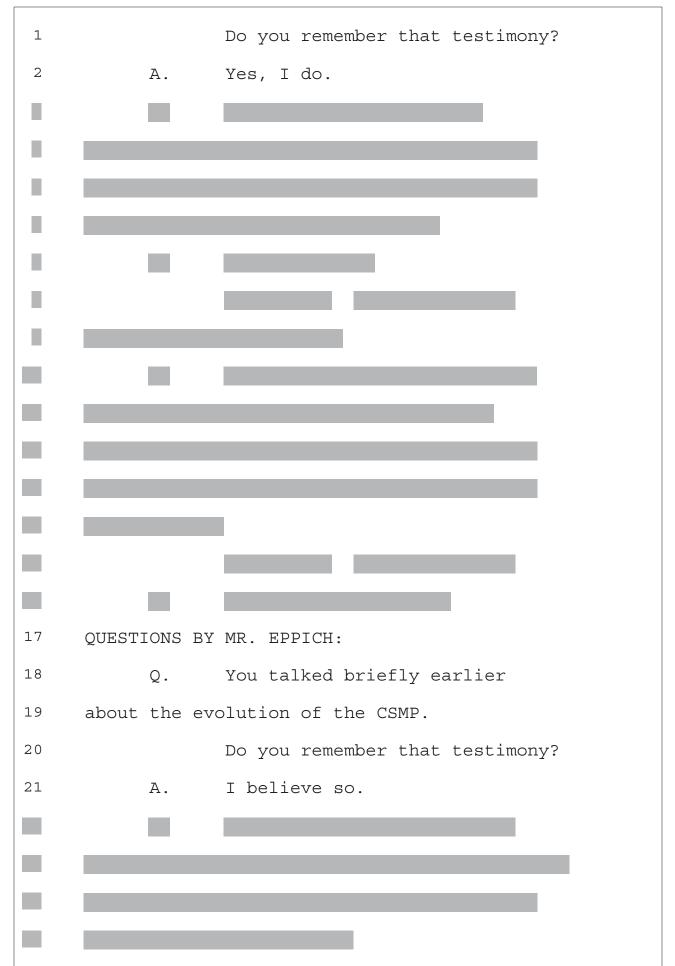
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1
                   So it had monthly reporting
 2
     requirements for every registrant that's a
 3
     manufacturer or distributor.
                   So McKesson has to submit its
 4
 5
     sales data to the DEA as a part of this ARCOS
     reporting requirement? Is that correct?
 6
 7
                   MR. BOGLE: Object. Object to
 8
            form.
 9
            Α.
                   That's correct.
10
     QUESTIONS BY MR. EPPICH:
                   And do other distributors have
11
            Q.
12
     to similarly report their sales data for
13
     controlled substances to this ARCOS reporting
14
     system?
15
                   MR. BOGLE: Object to form.
16
            Α.
                   That's correct.
17
     QUESTIONS BY MR. EPPICH:
18
                   Does McKesson have access to
            Ο.
19
     other distributors' data that's reported to
20
     ARCOS?
21
                   No, they don't. We asked for
           A.
22
     it.
23
                   Who has access to the ARCOS
            Ο.
     reporting data?
24
25
                  Only the DEA.
            Α.
```

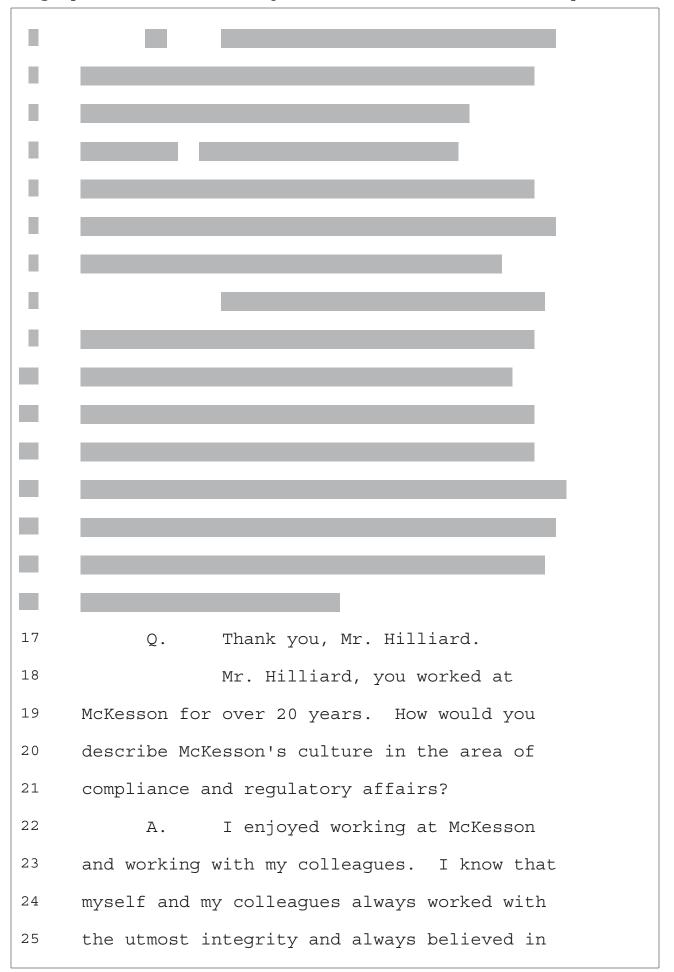
1 Ο. Did McKesson have the ability 2 to know -- let me strike that. 17 QUESTIONS BY MR. EPPICH: 18 You may recall a few moments Q. 19 ago Mr. Bogle asked you some questions about 20 Exhibit 27. Do you have Exhibit 27 in front of you? 21 22 Yes, I do. Α. Now, Exhibit 27 is titled the 23 Ο. 24 Administrative Memorandum of Agreement. 25 Do you see that?

```
1
            Α.
                   I see it.
 2.
            Q.
                   Mr. Bogle had you turn to
 3
      page 3 of this document, which is Bates
 4
      ending 355352.
 5
            Α.
                   I see that.
 6
            Q.
                   Do you remember that, sir?
 7
            Α.
                   Yes, I do.
 8
            Ο.
                   And he read Section 2,
 9
     Acceptance of Responsibility, to you.
10
                   Do you remember that testimony?
11
            Α.
                   Yes, I do.
12
            Ο.
                   Now, about halfway down this
13
      paragraph, the paragraph reads: McKesson
14
      acknowledges that, at various times during
15
      the period from January 1, 2009, up through
16
      and including the Effective Date of this
17
      Agreement, it did not identify or report to
18
      DEA certain orders placed by certain
19
      pharmacies which should have been detected by
20
      McKesson as suspicious based on the guidance
21
      contained in the DEA Letters and -- about the
22
      requirements set forth in 21 C.F.R.
23
      1307.174(b) and 21 U.S.C. 842(a)(5).
24
                   Do you see that, sir?
25
            Α.
                   Yes, I see it.
```

1 Now, before your deposition Ο. 2 today, had you ever seen Exhibit 27? 3 No, I haven't. Α. 4 Ο. And while you were at McKesson, 5 did anyone ask you to investigate any of the pharmacies' alleged activity that's described 6 7 in this document for this period January 1, 8 2009, to the date of this agreement? 9 Α. No. Do you have any knowledge about 10 Q. 11 the allegations described in Exhibit 27? 12 Α. Not that I recall. 13 Q. If you could turn to 14 Exhibit 26. Mr. Bogle introduced Exhibit 26 15 to you. 16 Do you remember that? 17 Α. Yes, I do.







```
what we were doing and strived to do the
 1
 2.
     right thing, and as they brought new folks in
 3
     and I worked with some of them, they too were
     on the same page and had the same goals that
 5
     we had.
 6
            Q.
                   Thank you, Mr. Hilliard.
 7
                   MR. EPPICH: I have no further
 8
            questions.
 9
                   MR. BOGLE: I've just got a few
10
            follow-ups. It's your call,
11
            Mr. Hilliard. If you're okay looking
12
            straight ahead, I've probably got like
13
            six or seven questions for you.
14
                   THE WITNESS: That's fine.
15
                   MR. BOGLE: If you want me to
16
            move back over there, I really don't
17
            care.
18
                   THE WITNESS: That's fine.
19
                   MR. BOGLE: You good? Okay.
20
            Just -- Chris is going to tell you to
21
            look straight ahead. Don't look at
22
            me, which is probably easy for you to
23
            do.
24
                   All right. I'm ready.
25
                            --000--
```

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Case: 1:17-md-02804-DAP Doc#: 1964-26 Filed: 07/23/19 345 of 356 PageID #: 164118 Highly Confidential Expression



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QUESTIONS BY MR. BOGLE:

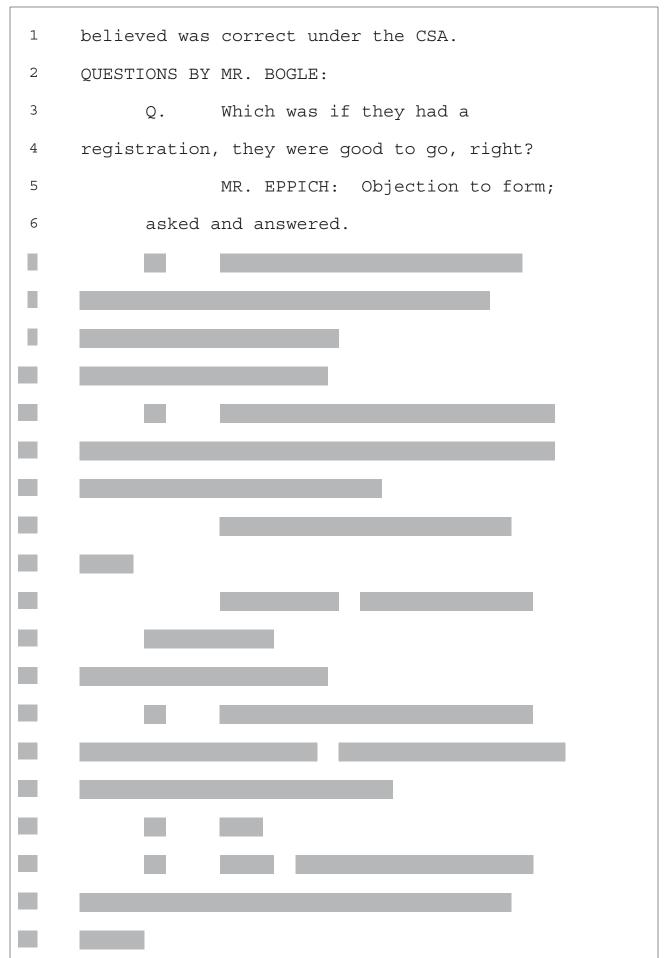
Q. Yeah. So I'm not talking about
the CSA. I'm talking about, again, what a

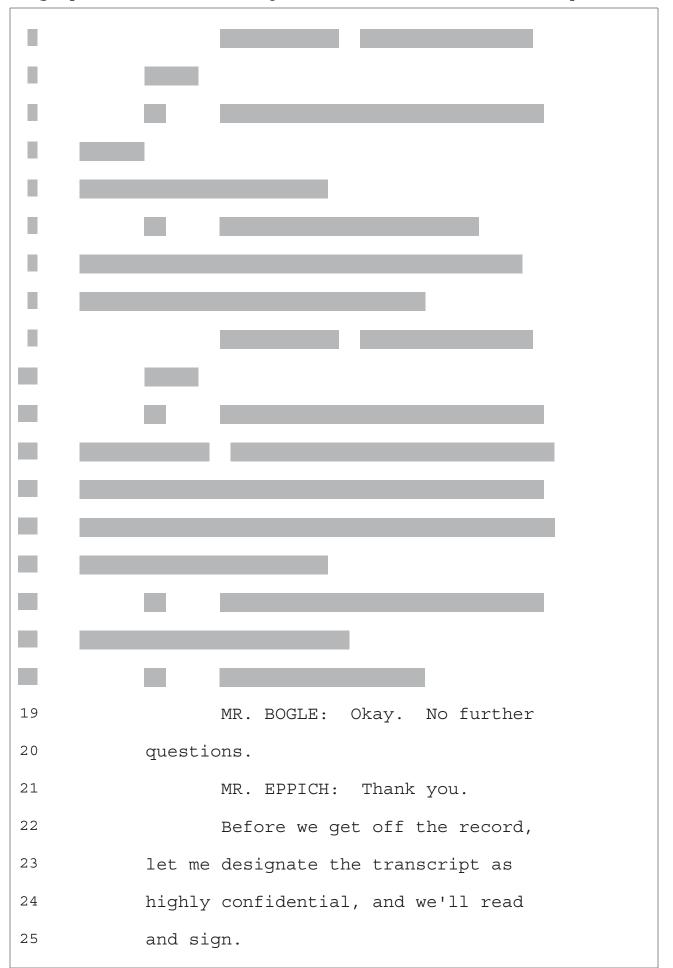
good company would do.

5

- Do you think it would be a bad
- 7 thing for McKesson, in an attempt to be a
- good corporate citizen, to at all times know
- 9 what its customers were doing with the
- opioids it was distributing to them?
- MR. EPPICH: Object to the
- form; asked and answered.
- A. We had processes in place to
- comply with the CSA, and I can't specifically
- speak to everybody in McKesson.
- 16 QUESTIONS BY MR. BOGLE:
- Q. Okay. And I'm not -- okay.
- 18 Let me ask it to you this way: Do you think,
- as Gary Hilliard, director of regulatory
- 20 affairs for nearly 20 years at McKesson,
- 21 that -- is your personal belief that it would
- be a bad thing for McKesson to know what its
- customers were doing with opioids McKesson
- was distributing to them? What is your
- personal opinion?

- 1 MR. EPPICH: Object to the 2 form; asked and answered. 3 A. As I say, we believed that we
  - 4 were doing what was required, and we had
  - 5 means to investigate and look into our
  - 6 customers and their business activities.
  - 7 QUESTIONS BY MR. BOGLE:
  - 8 Q. Would it be a bad thing to know
  - 9 what your customer is doing with the opioids
- you're giving them? That's my question.
- MR. EPPICH: Objection, form.
- 12 Asked and answered.
- 13 A. Our customers were registered
- 14 with the DEA. We serviced our customers that
- had DEA registrations and were receiving
- prescriptions from DEA-registered physicians.
- We believed we were complying with the CSA
- 18 requirements.
- 19 QUESTIONS BY MR. BOGLE:
- Q. Okay. So as long as they were
- registered with the DEA, that was all you
- needed to know about your customer, right?
- MR. EPPICH: Objection.
- Misstates the prior testimony. Form.
- A. Again, we were doing what we





```
THE REPORTER: Thank you, sir.
 1
 2
                    MR. EPPICH: Thank you.
 3
                    THE VIDEOGRAPHER: Off the
            record at 4:20.
 4
                    (Deposition recessed at
 5
            4:20 p.m.)
 6
 7
                             --000--
 8
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1	CERTIFICATE					
2						
3	I, SUSAN PERRY MILLER, Registered					
	Diplomate Reporter, Certified Realtime					
4	Reporter, Certified Court Reporter and Notary					
_	Public, do hereby certify that prior to the					
5	commencement of the examination, GARY					
	HILLIARD was duly sworn by me to testify to					
6	the truth, the whole truth and nothing but					
	the truth;					
7	That pursuant to Rule 30 of the					
,	Federal Rules of Civil Procedure, signature					
8	of the witness was reserved by the witness or					
9	other party before the conclusion of the					
10	deposition;  That the foregoing is a verbatim					
10						
11	transcript of the testimony as taken					
<u> </u>	stenographically by and before me at the					
12	time, place and on the date hereinbefore set					
	forth, to the best of my ability.					
13	I DO FURTHER CERTIFY that I am					
7.4	neither a relative nor employee nor attorney					
14	nor counsel of any of the parties to this					
1 -	action, and that I am neither a relative nor					
15	employee of such attorney or counsel, and					
1.6	that I am not financially interested in the					
16	action.					
17						
18						
19	George Decree M' 7.7					
20	Susan Perry Miller					
20	CSR-TX, CCR-LA, CSR-CA-13648					
21	Registered Diplomate Reporter					
21	Certified Realtime Reporter					
22	Certified Realtime Captioner					
	NCRA Realtime Systems Administrator					
22	Notary Public, State of Texas					
23	My Commission Expires 03/30/2020					
24						
0.5	Dated: 14th of January, 2019					
25						

ACKNOWLEDGMENT OF DEPONENT						
I, GARY HILLIARD, do hereby						
certify that I have read the foregoing pages						
and that the same is a correct transcription						
of the answers given by me to the questions						
therein propounded, except for the						
corrections or changes in form or substance,						
if any, noted in the attached						
Errata Sheet.						
GARY HILLIARD DATE						
Subscribed and sworn to before me this						
day of, 20  My commission expires:						
11/ COMMITDUTOR CAPITOD.						
Notary Public						
Notary Public						
Notary Public						

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1	
2	ERRATA
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4	PAGE LINE CHANGE
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6	REASON:
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1			LAWYER'S NOTES
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